

STUDIES IN GERMAN IDEALISM

MODERN FREEDOM

Hegel's Legal, Moral,
and Political Philosophy

Adriaan T. Peperzak

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MODERN FREEDOM

Hegel's Legal, Moral, and Political Philosophy

by

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To all my friends in philosophy

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summarized his philosophy of right in the three editions of his *Encyclopedia* (1817, 1827, and 1830), where the argumentation is clearer than in his textbook of 1820, I analyzed these three versions in *Hegels praktische Philosophie* (1991) before tackling the original project. That the present study finally has been completed, I owe mainly to the Arthur J. Schmitt Foundation and Loyola University Chicago, which appointed me to the Schmitt Chair of Philosophy in 1991 and granted me two leaves of absence to continue my work on this book.

The aims I have pursued can be summarized in the following points:

(1) The doctrine of Hegel's textbook (1820) should be situated and clarified.

(2) The logic that rules his arguments should be laid out.

(3) Without pursuing all of the "influences" that relate Hegel's practical philosophy to his predecessors (Plato, Aristotle, Cicero, Macchiavelli, Hobbes, Grotius, Spinoza, Locke, Leibniz, Rousseau, Kant, Fichte, and Schelling in particular) I should at least briefly indicate how some of the main filiations are integrated in Hegel's synthesis.

(4) Sufficient information should be offered on those other parts of Hegel's system that are presupposed in his practical philosophy.

(5) The composition of Hegel's treatise and its parts should be clarified by means of structural schemas.

(6) While a *detailed* comparison of the *Rechtsphilosophie* of 1820 with the three versions of the *Encyclopedia* would demand another book, at least the main agreements and differences should be shown and explained.

(7) Hegel's own course notes and those of his students should be used with caution to clarify and illustrate the meaning of the texts he published during his life.

(8) A fair and more or less complete overview of the secondary literature should be given. Since it is physically impossible to read all publications on Hegel, however, selectivity was inevitable (which entails the risk of injustice and partial ignorance).

(9) *In this book it is not my purpose to criticize Hegel, but rather to serve those colleagues and students who look for assistance or discussion in the study of Hegel's thought. In this respect,*

benevolent distance followed by meditation seems to me more fruitful than overhasty judgment. However, to show some possibilities of thinking otherwise than Hegel, I have allowed myself some critical hints in the margins and in the Epilogue.

To what extent this study meets these conditions, the reader must decide. I do not doubt that I have made mistakes and I apologize in advance to those scholars whose publications, had I read them, may have improved my text. If the latter has some merit, it is mainly due to the many educators, friends, colleagues, assistants, secretaries, students, and sympathizers, who encouraged, instructed, corrected, and challenged me during the work on this project. They are too numerous to be mentioned by name, but I wish to make an exception for some of them who were closely connected with the production of this study: Angela, my wife, who bore with the many hours of my concentration on an admirable but debatable thinker; Victor Beerkens and Max Ten Dam, who assisted me in structuring Hegel's texts; Laurel Dantzig, who significantly ameliorated my English; and Katrine Poe, who, with great care and patience, disentangled my handwriting and assisted me in composing the index.

Adriaan T. Peperzak
Chicago-Wilmette
18 September 2000

ABBREVIATIONS

Works by Georg Wilhelm Friedrich Hegel

Berliner Schriften G.W.F. Hegel. *Berliner Schriften 1818-1831*. Edited by Johannes Hoffmeister. Hamburg: Meiner, 1956.

Briefe Johannes Hoffmeister (ed.). *Briefe von und an Hegel*. Four Volumes (I, II, III, IV). Hamburg: Meiner, 1952-1960.

Briefe IV/1 Friedhelm Nicolin (ed.). *Briefe von und an Hegel*. Band IV, Teil 1: Dokumente und Materialien zur Biographie. Hamburg: Meiner, 1977.

Elements G.W.F. Hegel. *Elements of the Philosophy of Right*. Edited by Allen W. Wood and translated by H. B. Nisbet. Cambridge: Cambridge University Press, 1991.

Enc G.W.F. Hegel. *Encyclopädie der philosophischen Wissenschaften im Grundrisse zum Gebrauch seiner Vorlesungen*. Heidelberg: Oßwald, 1817.

The three versions of the following:

Enc A G.W.F. Hegel. *Encyclopädie der philosophischen Wissenschaften im Grundrisse zum Gebrauch seiner Vorlesungen*. (1817) Photographic reprint in pp. 1-130 of Volume 6 (*Enzyklopädie der philosophischen Wissenschaften im Grundrisse und andere Schriften aus der Heidelberger Zeit*) of the *Sämtliche Werke* (Jubiläumausgabe in zwanzig Bänden),

edited by Hermann Glockner. Stuttgart: Frommann-Holzboog, 1956.

- Enc B G.W.F. Hegel. *Encyclopädie der philosophischen Wissenschaften im Grundrisse zum Gebrauch seiner Vorlesungen* (1827), GW 19.
- Enc C G.W.F. Hegel. *Encyclopädie der philosophischen Wissenschaften im Grundrisse zum Gebrauch seiner Vorlesungen* (1830), GW 20. For the Zusätze (Additions by the *Freunde*), I used Su 8, 9, 10.

Examples of abbreviations:

- Enc A 20 = *Encyclopädie* of 1817, Section 20
- Enc A 20R = *Encyclopädie* of 1817, Remark to Section 20
- Enc B 24R = *Encyclopädie* of 1827, Remark to Section 24
- Enc B 24 & R = *Encyclopädie* of 1827, Section 24 and Remark
- Enc C 25 = *Encyclopädie* of 1830, Section 25
- Enc C 24 & R = *Encyclopädie* of 1830, Section 24 and Remark
- Enc C 27Z = *Encyclopädie* of 1830, *Zusatz* to Section 27
- Enc BC 26 = Both *Encyclopädie* of 1827 and 1830, Section 26

- Grl G.W.F. Hegel. *Grundlinien der Philosophie des Rechts (Naturrecht und Staatswissenschaft im Grundrisse: Zum Gebrauch für seine Vorlesungen)* mit Hegels eigenhändigen Randbemerkungen in seinem Handexemplar der Rechtsphilosophie. Herausgegeben von Johannes Hoffmeister (Volume 12 of

the *Sämtliche Werke*. Neue Kritische Ausgabe). Hamburg: Meiner, 1955.

Examples of abbreviations:

Grl 215 = Section 215

Grl 215R = Remark to Section 215

Grl 215 & R = Section 215 and Remark

Grl 215Z = *Zusatz* to Section 215

Grl 215 & Z = Section 215 and *Zusatz*

GW

G.W.F. Hegel. *Gesammelte Werke*. Herausgegeben im Auftrag der Deutschen Forschungsgemeinschaft. Hamburg: Meiner, 1968ff.

Hom

Homeyer's notes according to *Mitschriften*.

Il1 1, 2, 3, 4

G.W.F. Hegel: *Vorlesungen über Rechtsphilosophie 1818-1831*. Four volumes. Edited by Karl-Heinz Ilting. Stuttgart: Frommann-Holzboog, 1973-1974.

Knox

G.W.F. Hegel. *Hegel's Philosophy of Right*. Translated with notes by T. M. Knox. Oxford: Oxford University Press, 1952.

Logic

G.W.F. Hegel. *Wissenschaft der Logik. Erster Band. Die objektive Logik* (Nürnberg: Schrag, 1812); *Erster Band. Die objektive Logik. Zweites Buch. Die Lehre vom Wesen* (1813); *Wissenschaft der subjektiven Logik oder die Lehre vom Begriff* (1816). Volume I (1812/13); Volume 2 (1816); revised Volume I (1832) = Volumes 11, 12, and 21 of GW.

Mitschriften

G.W.F. Hegel. *Die Philosophie des Rechts: Die Mitschriften Wannenmann (Heidelberg, 1817/18) und Homeyer (Berlin, 1818/19)*. Edited by Karl-Heinz Ilting. Stuttgart: Klett-Cotta, 1983.

- Phän G.W.F. Hegel, *Phänomenologie des Geistes*, GW 9.
- Principes* (Kervégan) G.W.F. Hegel. *Principes de la philosophie du droit*. Présenté, révisé, traduit et annoté par Jean-François Kervégan. Paris: Presses Universitaires de France, 1999.
- Principes* (Vieillard-Baron) G.W.F. Hegel. *Principes de la philosophie du droit*. Traduction, présentation, notes et bibliographie par Jean-Louis Vieillard-Baron. Paris: Flammarion, 1999.
- Su G.W.F. Hegel. *Werke in zwanzig Bänden*. Edited by Eva Moldenhauer & Karl Markus Michel. Frankfurt/Main: Suhrkamp, 1971.
- Vernunft/Geschichte* G.W.F. Hegel. *Die Vernunft in der Geschichte*. Edited by Johannes Hoffmeister. Hamburg: Meiner, fifth edition, 1955.
- Vorl G.W.F. Hegel. *Vorlesungen*. Ausgewählte Nachschriften und Manuskripte, various volumes. Hamburg: Meiner, 1983ff.
- Vorl (Henrich) *Hegels Philosophie des Rechts: Die Vorlesung von 1819/20 in einer Nachschrift*. Edited by Dieter Henrich. Frankfurt/Main: Suhrkamp, 1983.
- Wa G.W.F. Hegel. *Vorlesungen über Naturrecht und Staatswissenschaft. Heidelberg 1817/18 mit Nachträgen aus der Vorlesung 1818/19. Nachgeschrieben von P. Wannenmann*. Edited by C. Becker, et al. Hamburg: Meiner, 1983.
- Weltgeschichte* G.W.F. Hegel. *Vorlesungen über die Philosophie der Weltgeschichte*. Four volumes. Edited by Georg Lasson. Leipzig: Meiner, 1944.

- Ak** Works of Kant are quoted from *Kant's Gesammelte Schriften*, various volumes, Herausgegeben von der Preußischen Akademie der Wissenschaften, Berlin, 1910ff.
- Secondary Literature*
- Assessments** Robert Stern (ed.). *G.W.F. Hegel: Critical Assessments*. Four volumes. London-New York: Routledge, 1993.
- Anspruch und Leistung** Christoph Jermann (ed.). *Anspruch und Leistung von Hegels Rechtsphilosophie (Spekulation und Erfahrung II, 5)*. Stuttgart: Frommann-Holzboog, 1987.
- Companion** Frederick C. Beiser (ed.). *The Cambridge Companion to Hegel*. Cambridge: Cambridge University Press, 1993.
- Düsing, Subjektivität** Klaus Düsing. *Das Problem der Subjektivität in Hegels Logik: Systematische und entwicklungsgeschichtliche Untersuchungen zum Prinzip des Idealismus und zur Dialektik*. Beiheft *Hegel-Studien* 15. Bonn: Bouvier, 1976. Third, augmented edition 1995.
- Eley, Subj. Geist** Lothar Eley (ed.). *Hegels Theorie des subjektiven Geistes in der Enzyklopädie der philosophischen Wissenschaften im Grundrisse (Spekulation und Erfahrung II, 14)*. Stuttgart: Frommann-Holzboog, 1990.
- Ethical Thought** Allen W. Wood. *Hegel's Ethical Thought*. Cambridge: Cambridge University Press, 1990.
- Foundations** Adriaan T. Peperzak. "The Foundations of Ethics According to Hegel." *International Philosophical Quarterly* 23 (1983), pp. 349-365.

- die Geschichte* Klaus Düsing. *Hegel und die Geschichte der Philosophie: Ontologie und Dialektik in Antike und Neuzeit*. Darmstadt: Wissenschaftliche Buchgesellschaft, 1983.
- Hegels prakt. Phil* Adriaan T. Peperzak. *Hegels praktische Philosophie: Ein Kommentar zur enzyklopädischen Darstellung der menschlichen Freiheit und ihrer objektiven Verwirklichung (Spekulation und Erfahrung II, 19)*. Stuttgart: Frommann-Holzboog, 1991.
- Incidenza* Fulvio Tessitore (ed.). *Incidenza di Hegel*. Napoli: Morano, 1970.
- Le jeune Hegel* Adriaan T. Peperzak. *Le jeune Hegel et la vision morale du monde*. The Hague: Martinus Nijhoff, second edition, 1969.
- Materialien 1 and 2* Manfred Riedel (ed.). *Materialien zu Hegels Rechtsphilosophie*. Two volumes. Frankfurt/Main: Suhrkamp, 1975.
- Myths* Jon Stewart (ed.). *The Hegel Myths and Legends*. Evanston: Northwestern University Press, 1996.
- Pelczynski, State* Z. A. Pelczynski (ed.). *The State and Civil Society: Studies in Hegel's Political Philosophy*. Cambridge: Cambridge University Press, 1984.
- Philosophy and Politics* Adriaan T. Peperzak. *Philosophy and Politics: A Commentary on the Preface to Hegel's Philosophy of Right*. (International Archives of the History of Ideas, n. 113.) Boston-The Hague: Martinus Nijhoff, 1987.
- Reyburn* Hugh A. Reyburn. *The Ethical Theory of Hegel: A Study of the Philosophy of Right*. Oxford: Clarendon, 1921.

- Selbsterkenntnis* Adriaan T. Peperzak. *Selbsterkenntnis des Absoluten: Grundlinien der Hegelschen Philosophie des Geistes (Spekulation und Erfahrung II, 6)*. Stuttgart: Frommann-Holzboog, 1987.
- Siep, Grundl* Ludwig Siep (ed.). *G.W.F. Hegel: Grundlinien der Philosophie des Rechts*. Berlin: Akademie Verlag, 1997.
- Siep, Prakt. Phil* Ludwig Siep. *Praktische Philosophie im Deutschen Idealismus*. Frankfurt/Main: Suhrkamp, 1992.
- Theorie* Dieter Henrich & Rolf-Peter Horstmann (eds.). *Hegels Philosophie des Rechts. Die Theorie der Rechtsformen und ihre Logik*. Stuttgart: Klett-Cotta, 1982.
- Verfassungsgeschichte* Hans-Christian Lucas & Otto Pöggeler (eds.). *Hegels Rechtsphilosophie im Zusammenhang der europäischen Verfassungsgeschichte*. Stuttgart: Frommann-Holzboog, 1986.

References

- Hegel-Lexikon* Hermann Glockner. *Hegel-Lexikon*. Two volumes. Stuttgart, Frommann-Holzboog, 1957.
- Hist. Wörterbuch* Joachim Ritter & Karlfried Gründer (eds.). *Historisches Wörterbuch der Philosophie*. Various volumes. Darmstadt: Wissenschaftliche Buchgesellschaft, 1971ff.
- Register* Helmut Reinicke. *Register* [Index of Su]. Frankfurt/Main: Suhrkamp, 1979.

Unless otherwise noted, all translations are my own. With respect to the issue of non-sexist language, I have chosen to use the masculine forms throughout for the following reasons: (1) Not only does Hegel do so, but he is convinced that men (as the heads of families) are the proper *actors* in society and state. (2) Switching genders complicates the text too much. For instance, it is often impossible to replace a singular with a plural, and “his or her” often makes the dialectical relation very obscure. However, I do sometimes show my preference by using “her” and “she” in order to indicate that Hegel’s *principles* are equally valid for women and men.

INTRODUCTION

*Have you not sensed how ugly all opinions
are that lack epistēmē?*

(Plato, *Politeia*, 506c)

Though orthodox Hegelians are rare today, Hegel's presence in twentieth-century philosophy is overwhelming. Especially since the end of World War II, a widespread interest in his work has emerged in the context of phenomenology, existentialism, philosophy of history, and history of philosophy. In *Germany*, Hegel has always been regarded as one of the great classics, but a truly critical edition of his work became possible only with the founding of the Hegel Archives in the fifties, and most of the rigorous German scholarship has been published after that date.¹ In *France*, Jean Wahl's *Le Malheur de la Conscience* (1929), Alexandre Koyré's studies on the Jena manuscripts, and Alexandre Kojève's influential (mis)interpretation of the *Phenomenology of Spirit* (presented at the École des Hautes Études in the thirties and published in 1947) had awakened interest in Hegel's early work, but it was only after the war that Eric Weil, Henri Niel, and Jean Hyppolite initiated a

¹ For the development of scholarship on Hegel's "philosophy of right" from Ruge and Feuerbach to Marquard and Lübbe, and from a German perspective with emphasis on the German literature, see Henning Ottmann, *Individuum und Gesellschaft bei Hegel*, Vol. I: *Hegel im Spiegel der Interpretationen* (Berlin-New York: De Gruyter, 1977), 406 pp. For Ottmann's treatment of Kojève, see pp. 93-99; for Anglo-American readings of Hegel from Dewey to Plamenatz, see pp. 192-203; for Popper's fantasies, see pp. 204-210; for the reintegration of recent Anglo-American scholarship into "the mainstream of Western political theory from Knox to Charles Taylor," see pp. 282-299; for praise and criticism of Avineri, see pp. 290-296, and for praise of Taylor, see pp. 296-299. See also the reviews and the running bibliography of the *Hegel-Studien*, the critical chronicle of Hegel literature by W. Kern in *Scholastik* 37 (1962): pp. 85-114 and 550-578; 38 (1963): pp. 62-90; and in *Theologie und Philosophie* 42 (1967): pp. 79-88 and 402-418; 44 (1969): pp. 245-267; 46 (1971): pp. 71-87; 47 (1972): pp. 245-276; 48 (1973): 398-409; 50 (1975): pp. 565-581; 51 (1976): pp. 93-114 and 559-570; and the regularly appearing overviews of Hegel studies in *Archives de Philosophie*.

stream of rigorous interpretations of Hegel's later works.² Following the heyday of British Hegelianism in the nineteenth century, England showed its preference for the philosophical paths opened by Frege and Wittgenstein; however, the death of the last Hegel scholars, G.R.G. Mure and T.M. Knox, almost coincided with the foundation of the British Hegel Society.³ In Italy, the interest in Hegel has always been considerable. Whoever intends to study Hegel without neglecting the best secondary literature — which is, unfortunately, a widespread neglect — cannot do so without

² For French Hegel scholarship from 1840 to 1996, one can consult M. Roth, *Knowing and History: The Resurgence of French Hegelianism from 1930 through the Postwar Period* (New York: De Gruyter, 1988); and *De Kojève à Hegel: 150 ans de pensée hégélienne en France* (Paris: Albin Michel, 1996), written by two of the best French Hegel scholars, Pierre-Jean Labarrière and Gwendoline Jarczyk. Koyré, in the thirties, was the first in France to study Hegel's Jena manuscripts. See the texts of 1931 and 1934 collected in his *Études d'histoire de la pensée philosophique*. Alexandre Kojève (Kojevnikov), another Russian emigrant, gave a famous seminar on Hegel's *Phenomenology of Spirit* from 1933-1939 at the *Hautes Études*. The course notes of this seminar, which was attended by Sartre, Levinas, Fessard, and other upcoming luminaries, were edited and published by Raymond Queneau as *Introduction à la lecture de Hegel: Leçons sur la Phénoménologie de l'Esprit* (Paris: Gallimard, 1947). Henri Niel's book *De la médiation dans la philosophie de Hegel* (Paris: Aubier, 1945) provided a general introduction, and Jean Hyppolite's translation of the *Phänomenologie des Geistes*, *La Phénoménologie de l'Esprit* (Paris: Aubier, 1939-41, two volumes), which was the first translation into French, together with his study *Génèse et Structure de la Phénoménologie de l'esprit* (Paris: Aubier, 1946) set the record straight for the *Phenomenology*. Eric Weil, whose *Hegel et l'état* (Paris: Vrin, 1950) became a classic for the study of Hegel's political philosophy in Europe, was the most creative of the French Hegelians, as is shown in his *Logique de la Philosophie* (Paris: Vrin, 1950), *Philosophie Politique* (Paris: Vrin, 1956), and *Philosophie Morale* (Paris: Vrin, 1961). Throughout this book, I will also refer to some of the best French scholars of the second half of the outgoing century, such as Bernard Bourgeois, Jean-Louis Vieillard-Baron, Dominique Janicaud, Jacques D'Hondt, Bernard Quelquejeu, and Jean-François Kervégan.

³ The reawakening of Anglo-American interest is more recent than that of the German, French, Italian, or Dutch speaking world. For a critical overview, see H. S. Harris, "The Hegel Renaissance in the Anglo-Saxon World since 1945," in *The Owl of Minerva* 15 (1983-84): 77-106. Over the past few decades, however, many interesting studies have been published, which, as we will see, have a style of their own. For the study of Hegel's *Rechtsphilosophie*, the excellent work of Hugh A. Reyburn, *The Ethical Theory of Hegel: A Study of the Philosophy of Right* (Oxford: Clarendon, 1921) remains a model of interpretation, notwithstanding the modesty of his introductory words (which in 1921 was still appreciated): "I am very conscious of the imperfection of the treatment given here. The pre-suppositions of the ethical standpoint are not sufficiently expounded, and I have had to be extremely dogmatic in my references to Hegel's *Logic*. This I regret, but it seems inevitable" (p. xvii).

reading numerous excellent publications produced by Italian professors and *ricercatori*.⁴

The Hegel Society of North America was founded in 1970 and has flourished ever since, as is indicated by the quality of the studies published in its journal, *The Owl of Minerva*, and the proceedings of its biannual meetings. Since the 1980s, even analytic philosophers have shown interest in Hegel in publications that manifest a considerable amount of thought. Most of these studies focus on Hegel's legal and political philosophy or his "logic," whereas most "continental"-minded interpreters in America show a predilection for the *Phenomenology of Spirit*. Some of the latter continue to view the work of Kojève, or even Georgy Lukàcs⁵ as models of interpretation, while others either impose their own thought patterns on Hegel's *Phenomenology* or attempt a more historical reconstruction of Hegel's thought within the context of early nineteenth-century Enlightenment, Kantian criticism, Fichte's idealism, Jacobi's empiricism, Herder's enthusiasm, and Schelling's philosophy of absolute identity.

However, few Hegel scholars pay sufficient attention to the historical context in which Hegel's thought matured and the

⁴ In addition to the nineteenth-century Hegelianism of Spaventa, Vera, and others, a host of names could be given here, especially of those young researchers who, forced into a state of limbo by the labor market, have published thorough studies on the most difficult problems of Hegel scholarship. Some of the scholars whom I consider exemplary are Gabriella Baptist, Livia Bignami, Remo Bodei, Claudio Cesa, Franco Chiereghin, Alfredo Ferrarin, Leo Lugarini, Francesca Menegoni, Angelica Nuzzo, and Valerio Verra. I will refer to some of their publications at appropriate places in my commentary. For historical overviews of Italian Hegel scholarship, see Claudio Cesa, "Hegel in Italien: Positionen in Streit um die Interpretationen der Hegelschen Rechtsphilosophie," in *Allgemeine Zeitschrift für Philosophie* 2 (1978): 1-21; and Angelica Nuzzo, "An Outline of Italian Hegelianism (1832-1998), in *The Owl of Minerva* 29 (1997-98): 165-205.

⁵ For sharp criticism of Kojève's interpretation see the study by Labarrière and Jarczyk quoted in note 2, pp. 61-177, and O. Pöggeler, "Hölderlin, Schelling und Hegel bei Heidegger," in *Hegel-Studien* 28 (1993): pp. 370-372. On Georgy Lukàcs's extremely biased book *Der junge Hegel: Über die Beziehungen von Dialektik und Oekonomie* (Zürich-Wien: Europa Verlag, 1948), see my judgment in *Le jeune Hegel*, p. 26, note 3. See also Henning Ottmann, "Herr und Knecht bei Hegel. Bemerkungen zu einer missverstandenen Dialektik," in *Zeitschrift für philosophische Forschung* 35 (1981): 365-384, which signals the "exorbitant overrating of the dialectic of mastery and servitude" (p. 365) and offers a good interpretation of this dialectic as it is presented in the various stages of Hegel's writings up to the *Phenomenology* of 1806 and the works from 1817 to 1830.

elements of the philosophical and non-philosophical culture absorbed during his education and later readings. For example, it is only recently that Hegel's relations to Herder, Rousseau, and Jacobi have been investigated, while the influence of Montesquieu and Reinhold remains scarcely researched.⁶ Even more in need of serious investigation is the influence of eighteenth-century scholasticism, represented by such authors as Christian Wolff and the manuals Hegel studied in Tübingen. It is hardly possible to understand Hegel, especially his logic, if one does not see how he appropriated many of the categories and methodological devices of the instructors and works that introduced him to the world of philosophy and theology. Some of the scholars who do not see that anachronism hampers interpretation present Hegel as an authority for our time without reflecting on the change in mentality that

⁶ Reconstructions of the historical context should avoid the mistake of reducing it to a debate among the great minds that are remembered in our handbooks of the history of philosophy. The fact that Hegel was not well-known until the last twelve years of his life, and that Fries, who today is no longer read, received the professorships in Jena and Heidelberg that Hegel very much desired, should by itself be a warning to us that oversimplified historical schemas, according to which philosophy from 1800 to 1830 is seen as a discussion between Kant, Fichte, Schelling, and Hegel, might distort the historical reality. Richard Kroner's *Von Kant bis Hegel* (Tübingen: Mohr, 1921-24, two volumes) has convinced many readers that Hegel's interpretation of his own work was the logical outcome of a movement that linked four thinkers together as parts of one continuous history. Detailed study of the historical facts, including the texts Hegel actually read before he constructed a philosophy of his own, show that Kroner's interpretation (which, by the way, is not so far from Hegel's self-interpretation), though philosophically interesting, cannot be accepted as a historical reconstruction. Today, few scholars are specialists with regard to all four leaders of German idealism; even fewer are at the same time knowledgeable about Montesquieu, Lessing, Schiller, Herder, Jacobi, Goethe, Reinhold, Schulze, Hamann, Hölderlin, the Schlegels, etc. From the perspective of twentieth-century oversimplifications, in which Kant and Hegel tower over the other thinkers from 1770 to 1831, it is tempting to view Hegel's thought as an answer to Kant's questions and *aporiae* or to think that he was still "carrying on the Kantian program" (cf. Terry Pinkard, in *Assessments*, Volume IV, p. 137). To do so, however, is to overlook the great difference between their perspectives and characters, and the historical genesis of their mature work. In *Le jeune Hegel* (p. 251), I have forwarded the thesis that before 1801 there is no indication in Hegel's manuscripts of any thorough familiarity with Kant's first *Critique*, though he did, of course, have some general knowledge of it from his professors and the secondary literature of the time. Those who have objected to this thesis have not forwarded textual proof to the contrary comparable to the firm textual links that connect several of Hegel's early manuscripts with Kant's work on practical philosophy.

more than 150 years have created. Others deem it possible to separate "what is alive" in Hegel's work from "what is dead" without answering the questions of (1) how it is that they themselves are so knowledgeable about the difference between life and death in philosophy, and (2) how one can separate certain parts, without destroying or distorting them, from a system that strongly emphasizes the solidarity of the parts with one another and the whole.

Metaphysics?

There is a school of Hegel interpretation that takes its lead from the widespread opinion that metaphysics is outdated and has been or should be overcome. In contrast to most European interpreters who see Hegel's work as the culmination of a long metaphysical tradition, several Anglo-American scholars begin their commentaries by declaring that Hegel's philosophy is not metaphysical at all. Others, with a more nuanced view, recognize that his work indeed contains metaphysical elements but contend that these should be ignored or eliminated. Those who explain away all of Hegel's metaphysical thoughts most often state or imply that metaphysical interpretations are outdated, "pre-Kantian," "precritical," "uncritical," "traditional," "standard," or "old." Such declarations are neither interesting nor worthy of discussion unless they are accompanied by attempts at refuting those "old" traditions or some support for their own claim; such attempts are, however, seldom undertaken.⁷

⁷ The declaration that Hegel's thought is non-metaphysical will come as a shock to any scholar who has studied a single chapter of Hegel's *Logic*. However, this claim can be found in several Anglo-American publications and is often stated at the outset. From a rhetorical perspective, one is tempted to ask why such declarations are deemed so urgent; from a psychological point of view, one wonders what motivates the mixture of aggression and contempt for metaphysics that is displayed without delay. Predicates like "metaphysical," "pre-Kantian," and "pre-critical" are often used to disqualify from the outset other, especially "traditional" and "standard" interpretations; however, rarely is an attempt made to even sketch the metaphysical project one seems to despise. When Kant's thought is taken as the post-metaphysical project that Hegel would have continued, the interpreters seem to forget that *all* of Kant's critical works are written as "prolegomena for any future metaphysics," and that they are followed by treatises on nature, right, and morality, which Kant explicitly qualified as metaphysical (*Metaphysische Anfangsgründe der Naturwissenschaft*, *Die*

The claim that Hegel need not be read as a metaphysician sounds incredible in light of his constant use of such categories as *being, essence, idea, substance, subject, spirit, absolute, God*, etc., and his own claim that true thinking is impossible without integration of Parmenides, Plato, Aristotle, Proclus, Anselm, Spinoza, Descartes, Leibniz, Kant, Fichte, and Schelling. Are all these predecessors non-metaphysical? Metaphysics would then seem to be a quixotic windmill. Or did Hegel respect and overcome the metaphysical tradition by "lifting it up" to the level of some kind of historicism?⁸

Perhaps some commentators think that the non- or anti- or a-metaphysical character of Hegel's "absolute idealism" (as he himself calls it) can be proven by consistently translating it into twentieth-century language that they deem free from metaphysical assumptions. If such a transposition succeeded without losing essential elements of Hegel's texts, their account would perhaps corroborate their thesis. If, on the contrary, Hegel's thought cannot be captured in this transposition, their commentaries are obviously partial or unilateral. Hegel himself would call them untrue. If a partial reading is presented as equivalent to the whole, it is even false. But if the logic, as the heart of Hegel's thinking, is metaphysical, why are certain commentators so attracted to it that they spend considerable energy reshaping it into their own image?

No discussion about the metaphysical or non-metaphysical character of Hegel's thought is possible if the concept of "metaphysics" itself is left unclarified. Admittedly, such a clarification is almost impossible to provide within a few pages because the word "metaphysics" has had several meanings throughout the history of philosophy. An adequate definition presupposes not only a vast knowledge of its origin and transformations, but also the ability to summarize the historical material that goes by that name. The careless way in which "metaphysics" is handled by a great deal of twentieth-century scholars is perhaps reason enough to exclude the word "metaphysical" from any serious discussion about the right interpretation of Hegel's work.

Metaphysik der Sitten, Welche sind die wirklichen Fortschritte, die die Metaphysik seit Leibnizens und Wolffs Zeiten in Deutschland gemacht hat?). Dismissing metaphysics out of hand not only is disastrous for any serious history of philosophy, but also for philosophy as such.

⁸ Cf. Frederick C. Beiser, "Hegel's Historicism" in *Companion*, pp. 270-300.

Hegel himself used “metaphysics” in different senses. Even a simple rendering of his views on metaphysics already demands a complex investigation, but a few provisional indications may be helpful.

In the *first* place, “metaphysics” is the title for a pre-Kantian current of thought in *modern* philosophy, which Hegel characterizes and criticizes in both the Introductions of the second and third editions of the *Encyclopaedia* (BC 26-39) and, with more sympathy and attention to details, in his courses on the history of philosophy. Hegel frequently qualifies this notion of metaphysics as “the old (or older) metaphysics” or “the former metaphysics.”⁹ “Old,” in this context, does not mean “ancient” but early modern: Descartes, Spinoza, Locke, Leibniz, and Wolff are the big names of the “period of metaphysics.”¹⁰ Metaphysics is here characterized as a philosophy of the *Verstand*, as described in Enc A 18 and BC 26ff. Kant’s critique destroyed the foundations of this metaphysics, but as a “metaphysics of the *Verstand*” it continues in Hegel’s time, especially in the handbooks.¹¹ Well aware that Kant’s entire work was motivated by the desire to make possible a new metaphysics, Hegel formulates Kant’s refutation in more positive terms when he notes that Kant has “liberated metaphysics from the spirit as a *thing*.”¹²

Notwithstanding his criticisms, Hegel does not reject metaphysics — he never rejects anything — but rather he shows that, as a construction of the *Verstand*, it is a half-true mode of thinking that must be sublated in true, i.e., “*speculative*,” philosophy.¹³ This

⁹ GW 11, pp. 17 and 22; 12, pp. 154 and 229; Enc C 408R.

¹⁰ Su 20, pp. 70, 122, and 211; Enc A 18, 367R; Enc BC 26, 27, 28Z, 378; GrI 15R.

¹¹ Enc C 246Z, 304Z; Su 16, p. 259.

¹² Enc A 321R; cf. Enc C 408R.

¹³ “Metaphysics” is used in a positive sense in Su 19, pp. 68, 88, 82, and 85; Enc C 9R, 24, and 85. When Hegel criticizes (the former) metaphysics as a philosophy of the *Verstand* (e.g., Enc A 18; *Logic*, GW 12, pp. 192-193), he does not reject it, but argues that it must be integrated into a philosophy of the *Vernunft*. This allows him to state that his own “speculative logic contains the former logic and metaphysics” (Enc C 9R) and to maintain the title “logic and metaphysics” for the announcement of all his courses on logic. Cf. also Enc C 26-27, especially the last two sentences of § 27: “However, this [former] metaphysics is “former” only in relation to the history of philosophy; by itself, it is always present, [namely, as] the merely intellectual conception [*Verstandes-Ansicht*] of the issues of reason [*Vernunft-Gegenstände*]. An accurate consideration

leads to a *second* meaning of "metaphysics." Here it is not restricted to a historical phenomenon, but rather it indicates the intellectual element of true philosophy, which should be integrated into the fully rational truth of which only reason (*Vernunft*) is capable. In this sense, he can say the following:

. . . metaphysics means nothing else than the ensemble of the general determinations of thought, as it were the adamantine grid into which we bring all materials in order to make them understandable. Any educated consciousness has its own metaphysics, an instinct-like thinking, an absolute power in us, which we cannot master unless we make it an object of our knowledge (Enc C 246Z).

And:

All the knowledge and the representations of an educated consciousness are permeated and ruled by such a metaphysics; it is the grid in which all the concrete stuff of man's doing and striving is contained (Su 18, p. 77).

By emphasizing the metaphysical character of our abstract thought, "metaphysics" comes very close to Hegel's own "logic," which brings us to the *third* meaning. He identifies the two when, in a section of his "Preliminary concept" of the encyclopedic *Logic*, he writes:

The logic, in the essential sense of speculative philosophy, replaces what formerly was called *metaphysics*. . . . (Enc A 18).

The *logic* coincides [. . .] with the *metaphysics*, [i.e.,] the science of the *things* as grasped in *thoughts*, which were understood as expressing the *essences* of the *things* (Enc BC 24).

And even clearer:

Being itself [. . .] and all the logical determinations can be considered definitions of the absolute as the *metaphysical definitions of God* [. . .] For to define God metaphysically means to express God's nature in *thoughts*; the logic, however, encompasses all thoughts, insofar as they are still in the form of thoughts (Enc C 85).

A *fourth* meaning of metaphysics is found in Hegel's treatment of Aristotle, but Hegel notices that

metaphysics is not a name given by Aristotle [. . .] What we call metaphysics, Aristotle calls πρώτη φιλοσοφία (Su 19, p. 152).

of its style and main content is therefore also of interest for our present."

Finally, speaking about the metaphysics of Epicurus, Hegel adopts the Hellenistic division of philosophy into *metaphysics*, *physics*, and *ethics* or "*Moral*."¹⁴

None of these five meanings seem to guide the commentators who attack "metaphysical" interpretations of Hegel. What they see as metaphysical and why they despise it, often remains hidden. For some interpreters, the scandal seems to lie in what they see as the *theological* character of metaphysics. In a Feuerbachian or Nietzschean way (which is not Hegel's), they seem to be allergic to conceptions and perspectives that embrace "invisible" and "transcendent" realities or elements of reality. Such perspectives are called outdated, pre-modern or pre-postmodern, somewhat infantile, perhaps even Roman Catholic, and in any case unworthy of twentieth-century intellectuals. Whereas a more careful explanation of "metaphysics" in "continental" circles will most often refer to Heidegger's thesis that Western philosophy is constituted by its onto-theo-logical structure,¹⁵ analytic criticisms of metaphysics may have a scientific, empiricist, or historicist bent. Both schools, in their own post-Hegelian way, continue the tradition of eighteenth-century Enlightenment, but they rarely attempt to justify the basic postulates of this tradition or its twentieth-century offspring. They seem to suppose that the fight against metaphysics is over. Does this explain why they frequently limit themselves to portraying the enemy through evaluative predicates like "obscure," "precritical," "dualistic," "traditional," "theological," "believing in transcendent entities" or "a transcendent personal God," and so forth?¹⁶ Seldom is a serious reconstruction of classical metaphysics given before it is

¹⁴ Su 19, pp. 306 ff., 313 ff., 322 ff.

¹⁵ Cf. Martin Heidegger, "Die onto-theo-logische Verfassung der Metaphysik," in *Identität und Differenz* (Pfullingen: Neske, 1957), pp. 35-73.

¹⁶ A non- or anti-metaphysical interpretation of Hegel's philosophy, especially of his philosophy of absolute spirit, can be justified only if it includes a theory about the contrast between the metaphysical and religious language of Hegel's logic and philosophy of religion, on the one hand, and his "non-metaphysical thought" on the other. Did Hegel not dare to speak in a Feuerbachian way? Was he hiding his presumed atheism out of fear of the police or out of sensitivity to the faithful? An interpretation that, not only *prima vista*, seems to contradict Hegel's constant appeal to Christian faith, cannot ignore the question of why Hegel then cloaked his real thought in religious expressions. Those authors who defend an atheistic interpretation should at least give an explanation of the difference between Hegel's thought and his words.

rejected. It remains, therefore, a question whether the rejection is supported by knowledge, ignorance, or impressions. Those who, even today, are not ashamed of honoring the metaphysical tradition are not sure that they appreciate the same tradition as those who seem to fight its caricature. What is, for instance, the target of anti-metaphysicians who attack "obscure transcendent entities"? Is it not a central insight of classical metaphysics that "entities" can only be finite, that absolute transcendence (e.g., the transcendence of Plato's Good, Plotinus' One, Spinoza's Substance, or Thomas' God) cannot be a property of any entity, and that transcendence always implies some form of immanence? Furthermore, obscurity can be a sign of truth, as Aristotle's comparison of human minds with the bats' eyes tries to clarify. Some all-too-luminous truths demand that we be healed from natural blindness or myopia.¹⁷

Rather than giving an argument for equating "old" and "traditional" with "false," several authors use predicates like "metaphysical," "theological," and "ontotheological" in a normative and demeaning sense or they capitalize some solemn words like "Divine" Mind or "Absolute Subject" to ridicule opposing interpretations. If the anti-metaphysical position — or, for that matter, a metaphysical one — is defended by what "we today" should or should not "think," philosophy has been replaced by opinion. One of the (metaphysical) postulates of this doxa might consist in a view of history that bears some similarity to Hegel's speculative understanding of history as Progress. As a result of the stages through which history has advanced until now, our epoch would possess the truth regarding the past, or at least the supreme criterion of all truth. One difference with Hegel's view is obvious, however. According to the anti-metaphysicians of our time, Hegel is not the end, but rather a past moment of the development that, through Feuerbach, Marx, Kierkegaard, Nietzsche, Wittgenstein, Heidegger, Freud, Quine, and Derrida, has led to *our* perspective on the basic truth. If such a conception of history were possible, it would provide us with great confidence in the correctness of "our" standpoint. "Our" philosophical establishment could then understand itself as a tribunal for judging the value of past and present

¹⁷ Aristotle, *Metaphysica*, a 1 (993b9-11).

thought in the name of a postmodern orthodoxy with all its dogmas and condemnations. To be against metaphysics, transcendence, and other kinds of "obscurity" would not only be the shibboleth of rigorous scholarship but also a fundamental virtue in philosophy. Established opinions generate authorities that easily replace arguments. Instead of a search, "thinking" then becomes ideologically correct, tyrannical, and intimidating.¹⁸

¹⁸ Ludwig Siep's excellent studies on Hegel's practical philosophy, collected in *Siep, Prakt. Phil* may be seen as representative of the dominant Hegel scholarship in Western Europe. In a chapter on "Hegel's metaphysics of morals" (pp. 182-194), Siep explains that Hegel avoids the word "metaphysics" as the title of any part of his philosophy because his logic, as a speculative critique of the *Verstand*, has absorbed traditional metaphysics and brought it to its Hegelian perfection. Siep then shows how Hegel's reform and "redetermination (*Neubestimmung*) of metaphysics" is at the same time similar to and different from Kant's metaphysics (p. 182). Hegel's philosophy of right is "doubtlessly metaphysics" because it is "the philosophical knowledge of an Absolute that in certain respects is independent of spatiotemporal processes and of conditions of specifically human life and action" (p. 183), and also because it appeals to an unconditional, time- and nature-independent reason (pp. 191-192). At the same time, however, Siep clearly states that "the metaphysical character of Hegel's practical philosophy does *not* seem exemplary for the tasks of a practical philosophy of the present" (p. 191). The latter judgment is not shared by all European Hegel scholars; some see Hegel as a modern Aristotle or even as an exemplary theologian, but most agree with the statement that Hegel's system transforms the metaphysical tradition without rejecting it. See also Rolf-Peter Horstmann, "Metaphysikkritik bei Hegel und Nietzsche," in *Hegel-Studien* 28 (1993): 285-301 and Hans Friedrich Fulda, "Spekulative Logik als 'die eigentliche Metaphysik': Zu Hegels Verwandlung des neuzeitlichen Metaphysikverständnisses," and "Philosophisches Denken in einer spekulativen Metaphysik," in Detlev Pätzold and Arjo Vanderjagt (eds.), *Hegels Transformation der Metaphysik* (Köln: Dinter 1991), pp. 9-27 and 62-82. To illustrate the contrast between the European mainstream and a powerful trend among American Hegel scholars, I will here provide some excerpts from influential studies by the latter.

In his Introduction to the *Companion* (pp. 1-24) Frederick Beiser mentions two objections against Hegel: (1) "his notorious obscurity" and (2) "more importantly, Hegel's apparent indulgence in metaphysics" (p. 2). According to Beiser, as a philosophy of the absolute, Hegel's philosophy is indeed a metaphysics (p. 4), but we must ask what "the absolute" is for Hegel and, consequently, what is Hegelian metaphysics? The latter has nothing to do with God, Providence, or the soul (p. 5) or any other "supernatural entity existing beyond the sphere of nature" (p. 8). Why not? According to Beiser, Kant has proven the unknowability of such an entity, while Schelling and Hegel have affirmed that the supernatural does not exist at all (p. 8). The absolute is "simply the whole of which all things are only parts" (p. 5). Beiser identifies this universe (p. 4) with nature and affirms that Hegel's metaphysics is a scientific naturalism "explaining everything according to natural laws," and a vitalistic materialism, which was the philosophy needed by the natural sciences of his day (p. 8). Those who are convinced that Hegel's philosophy is a philosophy of

spirit must learn that "spirit is only the highest degree of organization and development of the organic powers within nature" (p. 9). Instead of proving these bold statements by analyzing Hegel's own texts on nature, spirit, the absolute, God, etc., Beiser offers a global interpretation of the problems that connected Fichte and Schelling with Kant, giving very little attention to Hegel's own work. He hardly even mentions the *Logic* and the *Encyclopedia*. But if Hegel's philosophy is in the end nothing other than a materialistic theory of nature (pp. 8-9), why then is his philosophy of nature missing from this *Companion*? And why does it not contain a chapter on Hegel's philosophy of the soul and the (subjective) spirit? In any case, it is clear that Beiser's interpretation — in contrast to many of Hegel's own texts — operates from the atheistic and naturalistic perspective "of a strictly immanent metaphysics based upon experience alone" (p. 20) in which there is no alternative between "nature" and "a supernatural entity" (or God as a specific thing). Beiser's contribution, "Hegel's Historicism" (*Companion*, pp. 270-300), pays somewhat more attention to Hegel's texts, but he continues his battle against any form of "eternal entities" (p. 276, cf. 272) by presenting "Hegel's historicism" as "a revolution in the history of philosophy," which "consisted in not only subverting the Cartesian heritage, but also in historicizing the traditional objects of classical metaphysics, God, Providence, and immortality" (pp. 270-271). "The metaphysics of Hegel's historicism" (p. 288) is explained as the *internal* — not external, supernatural, or divine — teleology of history and nature (p. 289), and the absolute spirit is called an abstraction (p. 290-291); however, Beiser seems to understand the word "abstract" in a nominalist way (p. 291), whereas Hegel, who indeed thinks that the spirit cannot exist without the individual spirits of a human world, sees "the universal and abstract" end as an ontological moment of the idea, which includes its concrete realization. Apparently, Beiser does not accept any alternative to the choice between an "abstract" representation or image and a "hypostasis of spirit" (p. 291). That Hegel does not conceive of spirit, soul, or God as separate entities is clear to anyone who has read his *Philosophy of Religion*, and it is somewhat irritating to be told again and again that "Hegel's language here can be extremely misleading" as soon as Hegel speaks about God or spirit (p. 288). Beiser does however try to give yet another explanation of Hegel's "spirit." According to his "non-metaphysical reading of the purpose of history" (p. 292), "the concept of spirit is indeed simply a more-specific account of what Hegel means by the end of history, the self-awareness of freedom." This self-awareness should take the form of "the mutual recognition between free and equal persons; it is the intersubjective self-awareness of their freedom [. . .], 'the I that is a We and the We that is an I'" (p. 292). Like several other American Hegel interpreters, Beiser appeals to one of the intermediary stages of the *Phenomenology of Spirit* to say what the spirit, in the end, is. But he neither explains how this end of history can also be the origin that creates and reveals itself in all the phases of its natural and historical unfolding (Enc BC 384 and 567 ff.), nor does he explain how mutual self-awareness and recognition of singular persons can form one spirit. What does it mean that they "abandon their sense of themselves as separate individuals and [. . .] identify themselves with the social whole" (p. 293)? Besides the fact that Hegel never calls the social whole itself "spirit," one would like to know how mutuality can coincide with unity or totality. As we will see, Hegel's critique of recognition (*Anerkennung*) and contract (*Vertrag*) makes such a coincidence impossible. If "intersubjective self-consciousness" — whatever that may mean — is only "an abstraction" in the nominalist sense of the word, Beiser's answer implies that "spirit" is just a word.

Beiser's position in the *Companion* will come as a surprise to anyone who has read his excellent review article "Hegel, A Non-Metaphysician? A Polemic Review of H. T. Engelhardt and Terry Pinkard (eds.), *Hegel Rediscovered*," in the *Bulletin of the Hegel Society of Great Britain* 32 (1995): 1-13, where he severely and correctly criticizes the anti-metaphysical approach of Hegel's work by Klaus Hartmann and his, predominantly American, followers. Stating firmly that Hegel *reinterpreted* the absolute without simply reaffirming or rejecting its existence as it was interpreted before him, Beiser points out that Hegel "accepted the concept of the infinite in the broad Spinozian sense as that of which nothing greater can be conceived, or that which cannot be limited by anything," and that consequently, Hegel's absolute "cannot be some supersensible reality behind appearances, or some supernatural entity beyond the realm of nature." "The absolute must be the whole of all that exists," and "the task of metaphysics is to provide knowledge of the universe as a whole" (p. 4). All of this accords with Hegel's texts, but (1) Beiser identifies "the whole" with "nature" in an un-Hegelian way (p. 4), leaving out the spirit or reducing it to a property or structure of nature, and (2) he eliminates the ambiguity in Hegel's conception of the absolute by emphasizing the coincidence of the absolute with the totality, without emphasizing at the same time its original unity as idea, substance, and subject.

The combination of an anti-metaphysical interpretation and the identification of Hegel's spirit as mutual recognition of individuals has become popular in American literature on Hegel. Steven Smith, for instance, in *Hegel's Critique of Liberalism: Rights in Context* (Chicago: University of Chicago Press, 1989) writes: "Hegel's dialectic of *Geist* is best interpreted pragmatically or non-metaphysically as specifying some telos of agreement of persons who mutually acknowledge and enhance one another's right to recognition" (p. xi). The advantage of such a position is that Hegel's oeuvre can be reduced to a justification of what "we," in America at the end of the twentieth century, see as the ultimate framework of life. If Hegel's main thesis indeed were contained in his analyses of *Anerkennung*, we could spare ourselves the trouble of reading through his philosophy of the state and his writings and courses on art, religion, and philosophy. They would then add nothing essential to the stages of self-consciousness, contractual right, and civil society. See also Robert R. Williams, *Recognition* (Albany: State University of New York Press, 1992) and *Hegel's Ethics of Recognition* (Berkeley: University of California Press, 1997). Later, I will return to the question of the relations between the spirit and intersubjectivity.

In *Philosophy Without Foundation: Rethinking Hegel* (Albany: State University of New York Press, 1994), William Maker, while referring to Klaus Hartmann and Richard Dien Winfield, asserts that Hegel's philosophy is not a metaphysics, but is instead a purely intrasystemic system of pure reason that does not claim any agreement with "reality as we find it" (pp. 37-38). For proof, he refers (p. 252, n. 40) to Enc C §§ 26-78 and the *Logic*, but he does not explain what Hegel means by stating that Being and Thought are one and the same reality, which thesis is the cornerstone of his system as we will see in Chapter One.

Robert B. Pippin's book, *Hegel's Idealism: The Satisfaction of Self-Consciousness* (Cambridge: Cambridge University Press, 1989), begins by mentioning what he calls "well-known textbook formulations of Hegel's basic position," linking them to "a tradition of commentary often more opaque than the original texts" (p. 3). He concedes that any commentary must faithfully clarify "what Hegel calls the 'self-actualization of the Notion,' a progression fully and finally 'realized' in the 'identity of Notion and reality,' or in the 'Absolute Idea'" (p. 3), but he suggests

that such a clarification is not yet available. Ambiguity and confusion are especially apparent, he writes, in all versions that present a "metaphysical" (be it idiosyncratic Christian, romantic, or "cosmic spirit theological") Hegel. Pippin's judgment about this Hegel is clear: "The metaphysical Hegel looks like some premodern anachronism (or totalitarian bogeyman in some versions)," and Hegel's theory of the Absolute Idea can be saved only if it "could be interpreted and defended in a way that is not committed to a philosophically problematic theological metaphysics" (p. 5). Pippin's portrait of "the metaphysically interpreted Hegel" is a caricature, however. He presents the monism of the commentaries to which he refers in the framework of an either-or. According to Pippin, they portray Hegel as believing that "finite objects did not 'really' exist (only the Absolute Idea exists), that this One was not a 'substance' but a 'subject,' which, though 'not a static, eternal, Parmenidean One,' was still a Spirit or Absolute Idea unfolding in time (p. 4). Where, in the serious Hegel literature, has Pippin found such unreconciled oppositions? Does not Hegel always insist on the fundamental identity of opposite *moments* of the concept, the idea, the spirit, and the absolute? In his philosophy of religion, for instance, he constantly emphasizes that the one, eternal God is not separate from the empirical and historical reality of the many. The *identity* of identity and difference is precisely the crux of Hegel's system, which is inadequately characterized as a "general antifoundationalist holism" (p. 4). Such an identity may be obscure, but that would not necessarily condemn it. For Hegel, to reject an originary and all-encompassing unity would amount to the dethroning of reason by the power of the *Verstand*. This would bring us back to Kant or some pre-Kantian form of empiricism. Perhaps Pippin would not object to a return to Kant. It is not his purpose to give a historical reconstruction of the Encyclopedic Hegel (p. 10) and he concedes that "obviously Hegel did not put things as I suggest and felt free to use the language of Christian theology, Greek metaphysics, Hölderlin, Schelling, and his own many, many neologisms to express his speculative position" (p. 13). (As far as neologisms are concerned, I would think that most of them are just German translations of well-known Aristotelian categories and other standard terms from the classical tradition.)

Allen W. Wood, in his well-known work *Hegel's Ethical Thought*, recognizes that Hegel "regarded his own philosophical achievement as fundamentally a contribution to metaphysics or 'first philosophy.'" In Hegel's view, the foundation of all philosophy is the self-evolving system of [...] abstract thought-determination, presented in the purely philosophical discipline of speculative logic" (p. 1). However, "speculative logic is dead" because the revolution of logic in the late nineteenth and early twentieth centuries (Frege, Russell, etc.) has shown this to be so (pp. 4-5). However, the dogmatic acceptance of the new logic as the criterion for the evaluation of all former philosophies does not compel Wood to give up all interest in Hegel's work. One should be sensible enough to avoid Hegel's speculative metaphysics, for if you are not, "you will humbug yourself into thinking that there is some esoteric truth in Hegelian dialectical logic which provides a hidden key to his social thought"; however, "there is a powerful and important *ethical theory* in Hegel's work, which should be taken seriously by moral philosophers as well as by those who are interested in Hegel's social and political thought" (p. xiii). I am not the only one to be amazed by Wood's position. George Di Giovanni, in his review of Wood's book (*"Hegel, Nature, and the Rationalization of Experience,"* in *Dialogue* 32 (1993): 783-794) expresses a similar amazement: "It is a curious feature of Hegelian studies in English that its practioners seem incapable of tackling their subject

without first disclaiming any adherence to the more metaphysical side of Hegel's thought" (p. 783). However, I am even more amazed about the existence of an "ethical theory" (my emphasis), which Wood even equates with "philosophical foundations," when Hegel's thought is stripped of its dialectical, i.e., not only conceptual, analytical, and argumentative, but also ontological, substance. How is it possible that Hegel himself mistook the non-dialectical logic of his ethical theory for a concretization of the method displayed in his own *Logic*?

Peter Steinberger, who published his *Logic and Politics: Hegel's Philosophy of Right* with Yale University Press in 1988, would disagree with Wood's elimination of Hegel's logical basis because the purpose of Steinberger's book is "to consider the philosophy of Right explicitly in light of the Logic, i.e., as governed by, and as an application of Hegel's philosophical method" (p. ix). However, he too limits this scope by "largely ignoring the substantive metaphysical arguments that comprise the greater part of the *Logic*," for example, "most of the particular claims that Hegel makes pertaining to being and becoming, appearance and actuality, the Absolute, and the like" (p. 45). Wishing to focus on Hegel's "philosophical method" (p. 45), he apparently assumes that such a study can be separated from the two first parts of Hegel's *Logic* (cf. also pp. 44-47 of *Logic and Politics*). Though interested in Hegel's logic, he, like Wood, judges Hegel in the name of his own convictions: "In each case, the concern is to render Hegel's arguments in something like a logical form so that they can be evaluated in terms of the standard laws of thought and rational inference. The goal is less historical, literary, or even exegetical than discursive" (p. vii), which, according to Steinberger, also involves some elimination of obscurities.

A forthright account of the difficulties with which "analytic" philosophers must cope, if they — surprisingly — choose to study Hegel, can be found in Michael O. Hardimon's *Hegel's Social Philosophy: The Project of Reconciliation* (Cambridge: Cambridge University Press, 1994). This book adheres to the following three guidelines: (1) avoid Hegel's technical vocabulary, (2) minimize reliance on Hegel's metaphysics, and (3) present his views in terms that "we" can understand (p. 8). This program is, of course, based on several presuppositions. Can a philosophy (e.g., Aristotle's or Kant's or Frege's) be separated from the terminology it has forged to express new thoughts? Can Hegel's thought be divided into two parts: one that is metaphysical and one that is not? What sort of metaphysics would that be? Why should we ignore the metaphysical part? Is the other part still interesting when it is severed from its foundation and the whole? Who are the "we" that figure as the criterion for understanding? Did "we" not receive enough education to understand Hegel's German in the context of the early nineteenth century and the tradition of metaphysics? Must we adapt all classics to the standards of the twentieth-century sensibility of enlightened intellectuals? Hardimon concedes that his program "forces" him "to forego making exegesis a central part," but he continues to claim that his interpretation is "rooted in close readings of the texts" (p. 8). It is not clear to me how a correct reading is possible without exegesis, but Hardimon claims that his lack of exegesis is the price that must be paid for gains in clarity and perspicuity. The reason he forces himself to neglect all metaphysics probably lies in a horror he shares with other commentators: "spirit," he writes, "has the disadvantage of suggesting immateriality or incorporeality" (43). Hardimon does not seem to be aware of the (metaphysical) prejudice he thus reveals; he neither tells the reader what he means by the word "immaterial," nor why materialism should be the only respectable metaphysics — he is probably

Much power and glory is given to the conviction that the Enlightenment, through science and secularism, has put an end to the era of metaphysics and theology. This opinion can be impressive when it is supported by a profound familiarity with the classical monuments of Hebrew, Greek, Roman, and European thought and by a convincing diagnosis of the place and meaning of modernity, Enlightenment, and the postmodern problematics with which we find ourselves confronted. It is not impressive when it is no more than an intellectual or provincial commonplace. A critical interpretation of the doxic and behavioral modes of "our time" can make us more free with regard to the past and present of our culture (or rather *cultures*), for the talk of "*our* standards" and the "*we*" that thinks is a myth that urgently demands a critical diagnosis.

The implicit genealogy on which the prevailing fashion of today's philosophy rests seems to be a modified version of the progressive ideology that was typical for most of the eighteenth and part of the nineteenth century. It fits into a view of Western civilization according to which "the Greeks" inaugurated a contemplative culture of truth and beauty, a culture that was interrupted and obscured by a long period of "dark," superstitious, and infantile ages, but came to life again in modernity, of which "we" are the heirs. It took a few centuries to overcome the naive, magical, theological, and metaphysical elements that still haunted modern thinkers from Descartes to Hegel, but now, fortunately, science and logic have purified humanity of its illusions. Feuerbach, Marx, Comte, Darwin, Nietzsche, Freud, Carnap, and Russell are the key figures who enabled us to finally be at home in the *real* world, which we can now, finally, describe in scientific, sociological, and historical terms.

counting on a widespread prejudice that has exempted itself from justification.

These samples may suffice to illustrate a tendency that is most pronounced in much of the recent American Hegel literature. Important aspects of Hegel's thought are either condemned as outdated or revised and adjusted to another framework. In both cases, more attention is paid to the epistemological scholasticism that has conquered most American universities than to a careful reconstruction of the historical Hegel. A very different approach, in which Hegel's absolute and spirit is taken seriously and patiently discussed in relation to the classics and contemporary analytic philosophers, is found in John McCumber, *The Company of Words: Hegel, Language, and Systematic Philosophy* (Evanston: Northwestern University Press, 1993).

Genealogies are needed in order to feel at home in history and to justify — by appealing to preferred authorities and traditions — a specific mode of belonging to a community. The Feuerbachian, Comtian, and Nietzschean interpretations of Western history have resonated in many minds, and Hegel's philosophy certainly offers *aspects* that can be developed into a secular humanism without spirit or the absolute. However, a weakness in the prevailing genealogy lies in its ignorance concerning the long period ranging from Plotinus, or even Aristotle, to the beginning of modernity, a period of 1200-1800 years. Through the splendid scholarship of the last century, it has become impossible to characterize that period as a "dark" age, as Hegel, in his ignorance, persisted in doing. Other interpretations of Western history are now possible, and therewith other genealogies of belonging to that history as heirs of its heritage. It is no longer necessary to depreciate the so-called Middle Ages in order to praise modern humanism for its great discoveries; neither is it necessary to depreciate modernity to rehabilitate the artistic, philosophical, theological, and mystical treasures of the first 1600 years of our chronology. It is not forbidden nor does it show a less rigorous level of scholarship to view the modern Enlightenment as an unsuccessful experiment, despite the importance of its partial conquests, for which everyone should be grateful. The modern conception of autonomy and emancipation has demonstrated many serious restrictions and hardly anyone today would imitate Descartes or Hegel in attempting to reconstruct the entire universe with an eye to its rational reshaping. If the ideal of "autonomy" is no longer accepted as the basis of our culture, it becomes possible to see even modernity — and not the so-called Middle Ages — as the middle or transitional epoch, namely, as the period that occurred between the great tradition from Plato to Dante and the postmodern or postpost-modern culture that is, here and now, being born.

However, it is unnecessary to give an overall interpretation of "the Western history," as if, analogous to an individual life, it would form an organic whole whose phases are conserved and integrated in its last epoch. Does not the rigorous study of history teach us that we cannot understand periods as subordinate moments of one overall pattern teleologically oriented to a final stage? Certain ways of belonging extend over centuries, and

certain chronologically separated epochs can be experienced as simultaneous. For example, one can feel more affinity with Francis of Assisi than with Nietzsche or be closer to Plotinus and Levinas than to Pyrrho and Wittgenstein. Does such a preference show that someone is "hopelessly outdated"? On which grounds other than authority or arrogance could such a judgment be based?

What, then, is the philosophical force or the truth factor of time? Historicism is as clear a case of metaphysics as Hegel's thesis that history, as a temporal process, can only be an appearance of the eternal truth. The absoluteness of the historicist postulate testifies to its non-empirical, pre-scientific character. Whether it fits better into the *doxa* or the *ethos* of "today's intellectuals" may be debated; but even if we concede that all intellectuals nowadays share the same convictions — *quod non* — intellectuals do not constitute the supreme court of truth. They do not form one homogeneous group; and *all* opinions, even those of journalists and professors of philosophy in prestigious universities, deserve suspicion. Even if they are seldom challenged, they could be the academic expression of the many, toward whom Plato's Socrates directed his mixture of ironic benevolence and condescending interest.

The polemical remarks expressed here are not meant to impose a specific framework on the interpretation that is defended in this book. Rather, they point to a perspective that is neither in agreement with Hegel's own basic presuppositions concerning systematic philosophy and history, nor with those of his anti-metaphysical commentators. My interpretation tries to be as historically exact and "positivistic" as possible, but I am quite aware of the hermeneutical impossibility of clarifying Hegel's work in a way that would have been adequate in 1820. I cannot teach Hegel the way his best assistant would have. Nonetheless, I must try, in very different circumstances and means of communication, to come close to a faithful reconstruction. A succinct account of the precautions that must be taken in view of this goal would constitute the outline of a hermeneutical methodology for Hegel scholarship.¹⁹ Here I must restrict myself to formulating only a few of these precautions. In

¹⁹ The hermeneutic principles that guide my research in the history of philosophy are explained in *System and History* (Albany: State University of New York Press, 1986).

doing so, I will focus on Hegel's philosophy of right in the broad sense of the word "right" in which the legal, moral, familial, economic, political, and historical aspects of human existence are encompassed.

Philosophy and Historical Reconstruction

For a philosopher, the reconstruction of a classical work is subordinate to the personal rethinking of the questions treated in it. When we combine the skills needed for both activities, a delicate balance must be achieved that does justice to both the historical meaning of the studied texts and the potential that a creative appropriation can discover within them. The hermeneutic retrieval to which philosophers are drawn does not justify historical distortions, but it does permit imaginative transformations, insofar as such a retrieval does not have historical pretensions.

In discussing past theories, we try not to make the mistake of treating them as either contemporaneous or as dead relics of a henceforth sterile past. If we do not master the specific skills needed for a professional "history of ideas," we tend to replace the classics we want to discuss, with caricatures or, on the contrary, with mirror images of ourselves. Even great philosophers are guilty of such distortions. Many of them were not the best readers, as can be shown by examining, for example, Aristotle's accounts of Plato, Descartes' account of medieval philosophy, Kant's account of Aristotle, or Hegel's account of Plotinus.

Poor listening or reading does not necessarily preclude interesting metamorphoses of half-understood texts, but it does impede a true dialogue. The fact that so many classic thinkers of Western philosophy have failed as historians might be due to the monologism that characterizes the Western tradition. If our era is more sensitive to the intersubjective and dialogical conditions of philosophy, this should be expressed in more respectful manners of listening and doing justice to the works we use in our own thinking.

Though the monological tendency of our tradition may offer an explanation, it remains an amazing phenomenon that some philosophers seem to interrogate Hegel on the basis of their own theses without giving Hegel any chance to speak for himself by

explaining the basic perspectives and presuppositions through which *he* approaches his questions. If Hegel's presuppositions are to be found anywhere, it is in the various versions of his *Logic*; however, this part of his system — the only part where, as he claims, the true method is delineated and justified²⁰ — is not studied by many Anglo-American scholars.

Under the influence of Kojève's (mis)interpretation of the *Phenomenology of the Spirit*, this extremely difficult book has taken the front seat in the English Hegel literature, but one cannot say that the question of its method and, in general, of the logic by which it is ruled, has led to a clear answer that could be accepted as the basis for further Hegel research.

The neglect of Hegel's logic opens the door for a great variety of partial interpretations that correspond to the preferences of the commentators. This has led, for instance, to a more Kantian than Hegelian Hegel, an anti-metaphysical, and a historicist Hegel. Such portraits — which sometimes border on caricatures — may have their usefulness if they recognize their own limitations; some of them show, in an interesting way, how certain elements contained in his quarry may develop a life of their own that disrupts the horizons Hegel imposed on them. As explanations or commentaries, however, such attempts are misleading.

Purpose

This book is a commentary on one text: Hegel's *Grundlinien der Philosophie des Rechts* (1820).²¹ It treats that part of the Hegelian system that the *Encyclopedia* calls "philosophy of the objective

²⁰ Cf. the first and the last sections of the Preface to the *Grundlinien* and §§ 1R, 2R, and *passim*.

²¹ The book has two titles: *Naturrecht und Staatswissenschaft im Grundrisse* (*Natural Law and Political Science in Outline*) and *Grundlinien der Philosophie des Rechts* (*Groundplan of the Philosophy of Right*). The word *Grundlinien* (baselines) in the second title is difficult to translate. "Principles" would be possible, though not precise, while Nisbet's choice "Elements" is felicitous, especially when one makes the connection with Euclid's *Elements*. Although the title page indicates 1821 as the year of publication, the book was already available in 1820. A succinct overview of the historical context in which the book was written can be found in my *Philosophy and Politics*, pp. 15-31. In the present book I will not repeat the detailed explanation of the famous Preface and the information given there but I will presuppose familiarity with it.

spirit."²² There and in the book of 1820, Hegel emphasizes that this part of his philosophy cannot be separated from the systematic whole in which it is firmly linked to the study of other parts of reality and thought; its truth and relevance cannot be understood in isolation. If Hegel is right on this point — and it will become obvious that he is — a commentary on his philosophy of right cannot avoid clarifying other aspects of his system. In principle, this would require a commentary on Hegel's entire philosophy. However, some elements and connections are more obvious and relevant than others and even a full account of Hegel's oeuvre would uncover still unexplored topics and connections. Though all limitations are more or less arbitrary, pragmatic concerns call for restraint. I will therefore restrict myself, as much as possible, to what Hegel calls "right" and to those issues that are directly linked to it.

The method with which Hegel approaches "right" and the general ontology that is presupposed by it are unique and the subject of much debate. An analysis of Hegel's theory of right, therefore, cannot do without at least a succinct explanation of his ontological and methodological assumptions, both of which are thematized in his *Logic*. Thus, I will dedicate the first chapter of this book to a few key points of Hegel's (onto)logical practice and theory.

Systematic Connections

To understand how the philosophy of "right" belongs to a wider constellation, we must turn to the only work in which Hegel gives an overview of his entire philosophy: the *Encyclopedia of the Philosophical Sciences in Outline*.²³ In particular, his conception of spirit, the relations between theory and practice, and the relations

²² Cf. Enc A 400-452; B 482-552; C 483-552. See also Wa 6 and GrI 57R and 71R.

²³ *Encyclopädie der philosophischen Wissenschaften im Grundrisse*: first edition (Heidelberg), 1817; second edition, 1827; third edition, 1830. I will indicate the three versions by the capitals A, B, and C, followed by the number(s) of the section(s) to which I refer. The critical edition of the *Encyclopädie* of 1827 and 1830 is given in GW 19 and 20. The text of the 1817 edition can be found in the Jubiläumsausgabe of the *Sämtliche Werke* by Hermann Glockner, Volume 6 (Stuttgart: Frommann-Holzboog, 1956). An English translation of the latter is provided by Steven A. Taubeneck and published in *The German Library*, Volume 24 (New York: Continuum, 1990). I will, however, give my own translations.

between subjective, objective, and absolute spirit must be clarified before we can acquire an insight into the meaning and truth of "right." Hegel's approach to these and all other issues is ruled by logical, ontological, and methodological principles unfolded in his *Logic*, of which he published several versions: one in his *Wissenschaft der Logik* in three volumes, published respectively in 1812, 1813, and 1816, partially revised and republished in 1832, and three other versions in the three editions of his *Encyclopedia* (1817, 1827, and 1830). Logic (in Hegel's broad sense, which encompasses formal logic, epistemology, ontology or *metaphysica generalis*, metaphilosophy, and methodology) rules all of Hegel's works. In order to follow the argumentation of the *Grundlinien*, we must, therefore, be aware of the underlying logic. However, we cannot simply presuppose that the operative logic of Hegel's philosophy of right is a straightforward "application" of the logic displayed in the *Logic*, or even that it perfectly coincides with the explicit logical theory published in one of its versions. On the other hand, these versions cannot be ignored when reconstructing the demonstrations of the *Rechtsphilosophie*.²⁴

Hegel's system, and therewith his conception of "right," is also somehow contained in his *Phenomenology of Spirit*, published in 1807. This book was intended to be "the first part" of Hegel's "system of science,"²⁵ but it developed into a complete philosophy of the experiences through which human consciousness discovers how it can reach the dimension of truth. The whole of Hegel's thought is present in all his works, even in the most partial and fragmentary ones, but showing this demands a complete commentary on the unity of all his writings. This presupposes not only

²⁴ Cf. GrI, Preface, §§ 2, 2R, 4R, and *passim*. The logic of Hegel's philosophy of right has been discussed for many years, but the discussion has not led to a clear and convincing conclusion. See, e.g., the proceedings from a symposium on this question in Dieter Henrich and Rolf-Peter Hortsman (eds.), *Hegels Philosophie des Rechts: Die Theorie der Rechtsformen und ihre Logik* (Stuttgart: Klett-Cotta, 1982), and two important studies by Angelica Nuzzo: *Rappresentazione e concetto nella 'logica' della <Filosofia del diritto> di Hegel* (Napoli: Guida, 1990) and *Logica e Sistema: Sull' Idea Hegeliana di Filosofia* (Genova: Pantograf, 1992). In *Hegels prakt. Phil.* I have analyzed the logic of Hegel's philosophy of freedom and right as presented in the three versions of the *Encyclopedia*; in the present book, I try to clarify the logic of the *Grundlinien* by insisting on the conceptual structures involved in Hegel's argumentation.

²⁵ Cf. the editorial information in GW 9, pp. 453-464.

a comparison between them, but also a genetic study of the considerable transformations of Hegel's thought from his youth to his death in 1831. A certain degree of familiarity with the evolution of Hegel's thought is therefore desirable, perhaps even necessary, for a correct interpretation of his works. Before a precise account of that evolution can be given, however, each period must be studied synchronically, and this presupposes concentration on the way in which the writings of that period clarify one another. Because the main purpose of my commentary is to clarify a book written in 1820, I will emphasize the relations it maintains with other texts that were written in theoretical and temporal proximity to it. Among them, the first edition of the *Encyclopedia*, published in 1817, takes first place, especially its sections on logic and objective spirit. This text presents the first outline of Hegel's entire system, written in a dense, difficult, and not always grammatically correct style. Later amplifications and corrections, found in the second (1827) and third editions (1830), are often helpful to understand the text of 1817, but the first edition has the advantage of anticipating much of the theory unfolded in the 1820 text, while presenting this in the form of a succinct overview.²⁶

Student Notes

From 1801 until 1807 and from 1817 until his death in 1831, Hegel lectured every year, first in Jena, then in Nürnberg, Heidelberg, and Berlin, on various parts of his philosophy. He gave a course on *Logic and Metaphysics* more than twenty times. In Jena (1801-1807) he announced a course on this topic ten times, and from 1817 to 1831 he taught it each summer, except in 1818, when he taught "philosophical encyclopedia," as he did in three other semesters (winter 1816-17, 1818-19, and 1826-27). In Heidelberg and Berlin he also regularly taught the history of philosophy (nine times) and the philosophy of right (eight times); the ninth course in the history of philosophy and the eighth on the philosophy of right were terminated after two classes because of Hegel's death.

²⁶ Karl-Heinz Ilting has published the part of the 1817 *Encyclopedia* on Objective Spirit with Hegel's marginal notes in Volume One (pp. 136-215) of his edition of Hegel's *Vorlesungen über Rechtsphilosophie 1818-1831* in four volumes (Stuttgart: Frommann-Holzboog, 1973-74).

Other courses were given on philosophy of nature (four times, after the four times in Jena), philosophy of history (five times), anthropology and psychology (six times), aesthetics (six times), and philosophy of religion (four times).²⁷

It is fortunate that Hegel's first course on "Natural Law and Political Science," given at the University of Heidelberg during the winter of 1817-18, has been preserved in the form of student notes written by P. Wannenmann, who studied law at the university. A comparison with Hegel's published work makes clear that these notes are of a high quality: the student seems to have understood very well what Hegel taught and the notes form a coherent and accessible text without gaps. Hegel's second course, given in the winter of 1818-19 at the University of Berlin, is known to us through both the more concise and less illuminating notes of another student, C. G. Homeyer, along with Wannenmann's notes on the first few classes. In the winter of 1819-20, Hegel again gave a course on the philosophy of right, before publishing his book in September or October of 1820. The notes from this course also form a running commentary, but their quality is not high. Wannenmann's notes for the 1817-18 course and for the beginning of the 1818-19 course were published by Otto Pöggeler and his collaborators of the Hegel Archive. The notes of Homeyer were published by Karl-Heinz Ilting in 1973 (in *Ilt* 1, pp. 217-351) and in a revised form, together with Wannenmann's notes, in 1983. Ilting also published the student notes of several later courses on the philosophy of right in Berlin, while the course of 1819-20 was published by Dieter Henrich, together with his commentary.²⁸

²⁷ Cf. Wolfgang Bonsiepen et al., "Berichte über Nachschriften zu Hegels Vorlesungen," in *Hegel-Studien* 26 (1991): 11-119. A handy overview of all Hegel's courses can be found in Claudio Cesa (ed.), *Guida a Hegel* (Bari: Laterza, 1997), pp. 326-327. With regard to the editorial problems created by the manifold of recently discovered student notes, see Walter Jaeschke, "Probleme der Edition der Nachschriften von Hegels Vorlesungen," in *Allgemeine Zeitschrift für Philosophie* 5/3 (1980): 51-63; Otto Pöggeler, "Hegel Editing and Hegel Research," in J. O'Malley (ed.), *The Legacy of Hegel* (The Hague: Martinus Nijhoff, 1973), pp. 8-23, and "Nachschriften von Hegels Vorlesungen" (in which information is also provided about the edition of the *Gesammelte Werke*) in *Hegel-Studien* 26 (1991): 121-175.

²⁸ For Wannenmann's notes, I will use the edition by Becker et al, because it is the most trustworthy; cf. W. Bonsiepen, "Philologisch-textkritische Edition gegen buchstabengetreue Edition?" in *Hegel-Studien* 19 (1984): 259-269. For Homeyer, I refer to Ilting's publication of 1983. The course notes of 1819-20

The courses given in 1817-18 (in Heidelberg) and 1818-19 (in Berlin) precede the publication of the *Grundlinien* in 1820; sometimes they are helpful for interpreting difficult passages of the *Grundlinien*, and on some questions they are more straightforward than Hegel's published texts. The most interesting of the three courses that precede the book of 1820 is certainly the one reported by Wannenmann: it contains several developments that are found nowhere else, it gives more examples than the *Grundlinien*, and it does not seem to be tainted by any fear of offending the government. The latter feature could be explained by the fact that the course was given in Heidelberg, which belonged to the more liberal state Baden-Württemberg, and before the "Decrees of Karlsbad" were published in September 1820, whereas the book appeared after that date.²⁹ Following the publication of his book,

can be found in Vorl (Henrich). I will rarely quote from these notes because their accuracy is questionable (see the critical review by Hans-Christian Lucas in *Hegel-Studien* 20 (1985): 295-302). A precise overview of Hegel's courses on the philosophy of right, the *repetitoria* and *conservatoria* that were given by his assistants, and the preserved course notes along with their differing trustworthiness can be found in Elisabeth Weisser-Lohmann's "Hegels Rechtsphilosophische Vorlesungen, Zeugnisse, Manuskripte und Nachschriften," in *Hegel-Studien* 26 (1991): 63-73. Several commentators have exaggerated the importance of the course notes, especially those of Wannenman. However, in comparing the student notes with the *Grundlinien*, I have not found any essential difference, but most often paraphrases, illustrations, or clarification.

²⁹ Although the Wannenmann notes sometimes present a more straightforward Hegel than the text of the *Grundlinien*, I do not accept Ilting's thesis that Hegel, out of fear of the censor, repressed his more liberal thoughts in the published text of the *Grundlinien* (see below). Regarding this question, see the thorough reconstruction of the facts by H. C. Lucas and U. Rameil in "Furcht vor der Zensur? Zur Entstehungsgeschichte von Hegels *Grundlinien der Philosophie des Rechts*" in *Hegel-Studien* 15 (1980): 63-93; see also some revealing documents in P. Brückner, "... bewahre uns Gott in Deutschland vor irgendeiner Revolution!" *Die Ermordung des Staatsrats v. Kotzebue durch den Studenten Sand* (Berlin: Wagenbach, 1975), and my summary of the issue in *Philosophy and Politics*, pp. 20-28. Paolo Becchi, *Le filosofie del diritto di Hegel* (Milano: F. Angeli, 1990), pp. 48-52 gives more details. About the historical conflict, see W. Simon, *The Failure of the Prussian Reform Movement, 1807-1819* (Ithaca: Cornell University Press, 1955); E.R. Huber, *Deutsche Verfassungsgeschichte seit 1789: Reform und Restauration 1789 bis 1830*, Volume One (Stuttgart: Kohlhammer, second edition, 1975), pp. 717-732; and K.G. Faber, "Student und Politik in der ersten deutschen Burschenschaft," in *Geschichte in Wissenschaft und Unterricht* 21 (1970): 68-80. The most complete historical study on Hegel in the German context is Domenico Losurdo, *Hegel und das deutsche Erbe: Philosophie und nationale Frage zwischen Revolution und Reaktion* (Köln: Pahl-Rugenstein, 1989). Cf. also the summary in *Principes* (Kervégan), pp. 8-13 and the studies mentioned below in note 41.

Hegel gave courses on the philosophy of right in the winter semesters of 1821-22, 1822-23, and 1824-25. He began another course in 1831, but died after the first two classes given on November 10 and 11. In all of his courses after 1820, Hegel taught the *Grundlinien*, whose first sentence presents it as a manual and whose title page contains the phrase "for use in his classes."³⁰

Some real or only apparent differences between the thoughts expressed in some courses and the book of 1820 have reawakened an old debate about Hegel's personal attitude toward the political situation of his time and the question of his honesty or opportunism in expressing that position.³¹ Since the present commentary focuses on the book of 1820, I will use the early and later course notes only insofar as they are helpful for the explanation of Hegel's printed text, not as material for a historical study of Hegel's changes of mind or as testimonies of a more or less "conservative" or "progressive," "democratic" or "royalist," "liberal" or "servile" stance. The question of whether Hegel was a courageous man or had *opinions* that are agreeable to European or American professors of the 1990s seems to me less interesting than the question of whether Hegel, in his main publication on practical philosophy, proves a theory that is coherent in itself and with the other parts of his system. We do not need Hegel's authority to make up our own minds, but as historians we want to know what he really said and how he argued for it, and as philosophers we should take him seriously when he argues for the reasonability and necessity of a philosophical position. In any case the purpose of my book is to gain insight into a monument, Hegel's book of 1820,

³⁰ Heinrich Gustav Hotho's course notes of 1822-23 are published in Ilt 3 (see note 26), while K.G. von Griesheim's notes of 1824-25 and those of D.F. Strauß on Hegel's last two classes in 1831 can be found in Ilt 4. Student notes on a part of the course of 1821-22 have been discovered and described by Hansgeorg Hoppe. See his "Hegels Rechtsphilosophie von 1821/22" in *Hegel-Studien* 26 (1991): 74-78.

³¹ Cf. Ilt's Preface to his first volume (Ilt 1, pp. 25-126), which generated a lively discussion among German Hegel scholars. A judicious evaluation of Ilt's thesis can be found in Henning Ottmann, "Hegels Rechtsphilosophie und das Problem der Akkomodation," in *Zeitschrift für philosophische Forschung* 33 (1979): 227-243, and "Hegel and Political Trends: A Criticism of the Political Hegel Legends," in *Myths*, pp. 53-69, 324-326; and Claudio Cesa, "Edizioni e discussioni Hegeliane," in *Giornale Critico della Filosofia Italiana* 64 (1985): 334-342. See also note 55.

rather than to read the—hidden or outspoken—mind of professor Hegel.

In general, the student notes written during or after Hegel's classes should be used with caution. Most of Hegel's philosophy of history, art, religion, and history of philosophy was edited by his friends, shortly after his death, on the basis of their and others' course notes.³² In our century, a considerable amount of formerly unknown student notes of several courses have surfaced, and some have been published. Their quality is uneven; many are trustworthy as faithful renderings of Hegel's dictations and explanations, but others are muddled and confused, as one may expect from students who listened to a less than rhetorically brilliant teacher, who spoke in a jargon of his own about the most difficult questions of philosophy.³³ With regard to the philosophical aspect of Hegel's thought, the notes rarely add radically new information to a careful analysis of the published texts. Their advantage consists mainly in the fact that they show how Hegel, more or less successfully, tries to translate his difficult thought into more accessible language for the students, many of whom were planning careers outside philosophy.

To prepare himself for his classes, Hegel sometimes wrote fragments or jotted down a few notes in the books he was to explain. The handwritten notes to the *Grundlinien* have been deciphered (though not always correctly) and published by Lasson, Hoffmeister, and Ilting; the notes on the parallel parts of the *Encyclopedia* of 1817 were published by Ilting.³⁴ As authentic texts, they deserve serious attention, but since they are rarely composed of

³² See the prefaces of the edition of Hegel's *Werke* by the *Freunde* (Berlin: Duncker & Humboldt, 1832-45) and below note 36.

³³ See Heinrich Gustav Hotho's lively description of Hegel's teaching style in Günther Nicolin (ed.), *Hegel in Berichten seiner Zeitgenossen* (Hamburg: Meiner, 1970), n. 385, pp. 245-256. With regard to the editorial problems of the numerous *Nachschriften*, see note 27.

³⁴ Georg Lasson first published these notes in *Hegel-Archiv*, vol. 2, n. 2 (1914) and vol. 3, nn. 1-2, (1916) and later, as "*Hegels eigenhändige Randbemerkungen zu seiner Rechtsphilosophie*" in Meiner's edition of the *Grundlinien* (Leipzig: Meiner, 1930). Johannes Hoffmeister published a revised version with Hegel's marginal notes — the version that I use — in the fourth edition of the *Grundlinien* in his *Neue Kritische Ausgabe* of the *Sämtliche Werke*, Volume 12 (Hamburg: Meiner, 1955), pp. 301-432. Karl-Heinz Ilting published a revised version of the same notes in his edition of the *Grundlinien* in Ilt 2, and Hegel's handwritten notes to the first edition of the *Encyclopedia* in Ilt 1, pp. 127-215.

well-formed sentences, they often remain obscure. More elaborate fragments written by Hegel in preparation for his classes have almost the same status as the texts Hegel himself published, although even here it remains a question whether Hegel found them good enough to publish. On the philosophy of right, we do not possess any lengthy unpublished fragments, but we do have a publication concerned with political questions dating from the same time as the Heidelberg *Encyclopedia*: a tract on the Constitution of Württemberg. This rather curious work is relevant for Hegel's thought concerning the political constitution of the state; however, the book of 1820 is more helpful for a correct understanding of the tract than the other way around.³⁵

What has been said about the student notes must also be applied to the so-called *Zusätze* (additions), added by "the friends" to the third edition of the *Encyclopedia* (1830) and the book on *Rechtsphilosophie*. We may be grateful to Leopold von Henning, Karl Ludwig Michelet, Ludwig Boumann, and Eduard Gans, who provided the first interpretation of those books by clarifying and illustrating their content through fragments of Hegel's oral explanations. But here too caution is necessary.

With regard to Hegel's philosophy of right, the *Freunde* have not added *Zusätze* to the text of the *Encyclopedia* because they, along with Hegel, saw it as a summary of the more extensive text of 1820, which they enriched with fragments taken from the courses. Since we have student notes on all of Hegel's courses on the philosophy of right, those additions to the *Grundlinien* have lost most of their importance. Rather than being guided by Gans's selection of passages from the courses, we can now make our own selection from the available course notes.

For other parts of the *Encyclopedia*, especially the theory of subjective spirit, the logic, and the transitions from the logic to the philosophy of nature and from there to the philosophy of spirit, the general question of the *Zusätze* is still relevant. Though they are added to the third version of the *Encyclopedia*, published in 1830, many of them are taken from courses given much earlier, for which the first edition (1817) functioned as a textbook. Where the

³⁵ *Verhandlungen in der Versammlung der Landstände des Königreichs Württemberg, im Jahr 1815 und 1816*, GW 15, pp. 30-125.

first and the other editions (1827 and 1830) of the *Encyclopedia* differ, these additions create a certain confusion. In such cases, it is obvious that the additions cannot be accepted as authentic explanations of the later published texts to which they are added, even when the additions are much easier to read, which is often the case.³⁶

Some commentators, however, seem to prefer the *Zusätze* over Hegel's own writings; additions are sometimes even quoted as the only textual evidence for the interpretation of highly controversial issues. For scholarly use, however, we should use them only as applications, confirmations, or concretizations of Hegel's theory. Only in cases where authentic texts are unavailable may they be accepted as indications of Hegel's answers to questions that are not treated in his handwritten or published work. If they contradict the explicit theory of the authorized texts, we can presume that the student is wrong, unless we can show that it is plausible that they express a change in the evolution of Hegel's thought. On issues where Hegel left us without any authorized treatise (as is the case for large parts of the *Aesthetics*, the *History of Philosophy*, and the *Philosophy of World History*) we must, of course, use the surviving course notes as the only possible access to Hegel's thought; but here, too, the ultimate criteria for their authenticity lie in the principles of his authorized work.³⁷

³⁶ On the value of the *Zusätze* to the *Encyclopedia*, I maintain my position expressed in *Selbsterkenntnis*, pp. 167-168, n. 6, but I will use the student notes on the *Rechtsphilosophie* more liberally than before. Not only do they often reformulate in a more concrete and accessible way what Hegel's text frequently expresses in very abstract language, they also emphasize the continuity of Hegel's position throughout the stages of his thought from 1817 until his death. For a critique of Gans's *Zusätze* to the *Grundlinien*, see Johannes Hoffmeister's preface to the fourth edition of Hegel's book (without *Zusätze*): Grl, pp. ix-xvi, and Friedhelm Nicolin, *Hegels Bildungstheorie* (Bonn: Bouvier, 1955), p. 162. Hegel gave a course on the *Encyclopedia* (text of 1817!) in the winters of 1818-19 and 1826-27. On logic, however, Hegel lectured almost every year, and it is possible that some *Zusätze* to the logic of the *Encyclopedia* might have come from lectures on the *Logic*. According to Leopold von Henning's preface (pp. vi-vii) in his edition (1839) of the *Encyclopädie* of 1830, the editors of the *Encyclopedia* sometimes changed or completed the sentences in which the students had rendered Hegel's classes.

³⁷ For other authentic texts written around 1820, see the already published volumes 15, 17, and 18 of the *Gesammelte Werke* and the overview by Friedrich Hogemann and Helmut Schneider: "Verzeichnis der Heidelberger Schriften Hegels (1816-1818)," in *Hegel-Studien* 28 (1993): 21-39.

Genetic Connections

Although a commentary on Hegel's *Rechtsphilosophie* of 1820 is not a genetic study of Hegel's evolution, the chronological place and function of this book in the development of Hegel's thought cannot be entirely ignored. From a Hegelian perspective, one could try to determine the acme of Hegel's growth and thereby view all preceding writings as preparation. Would that acme coincide with the last version of his *Encyclopedia* (1830), shortly before his death? If so, practically all his texts would then be interpreted as approximations or fragments of the definitive system. If, however, the summit is reached in the *Grundlinien* (1820) or in the *Phenomenology of Spirit* (1807), later texts would be read as repetition or elaboration, or even as more or less decadent. However, the idea that the development of a person's philosophy preserves all the discoveries of each stage and "lifts them up" in the final, most mature stage might be false. Would we not do more justice to the course of most philosophical lives by assuming that discoveries are often paid for by the loss of conquests that belonged to former stages on the journey toward truth? Rather than a teleologically well-ordered course, a human life may instead be an adventure in which certain possibilities are discovered, attempted, and abandoned, whereas others are pursued, unfolded, and transformed into the reality of what one becomes in the end, for better or worse.

Hegel's journeys of discovery were not straightforward; he made unexpected turns, especially during the years 1793-1806, and the *Phenomenology* of 1807 surely does not present the final stage of his thought.³⁸ In addition, the logic of his first *Logic* (1811-1816) was later revised, and there are also some major differences between the philosophy of objective spirit, as it was presented in the

³⁸ Neither can the *Phenomenology* of 1807 be seen as part of Hegel's encyclopedic system that takes shape after 1816. Hegel's evolution from 1807 to 1816 not only involved changes in details and arrangements, but also in the underlying (onto)logic. The content of the *Phenomenology* thus cannot simply be integrated into the *Encyclopedia*. Hegel's own attitude toward his early masterpiece is somewhat ambiguous: although he sometimes refers readers of his later work to this text, he also indicates a certain distance, as we will see. I do not want to deny that the *Phenomenology* must be studied to gain access to Hegel's philosophical praxis, but I do not agree with those authors who recklessly combine its content (as they read it) with that of the *Grundlinien* or the *Encyclopedia*.

Encyclopedia of 1817, and the philosophy of right unfolded in the *Grundlinien* (1820). However, most changes that occurred after 1820 were neither dramatic nor fundamental; rarely do the later works clearly contradict the *Grundlinien*. In general, our hermeneutical rule should be that we can presume consistency unless we have clear indications to the contrary. This rule is confirmed by Hegel's explicit cross-references, especially in the *Grundlinien*, his *Logic*, and the *Encyclopedia*.³⁹ Concerning the later versions of the *Encyclopedia*, Hegel himself assures us of a general agreement between the *Grundlinien* and the *Encyclopedic* philosophy of objective spirit as contained in the *Encyclopedia*, when he declares: "Because I have developed this part of philosophy in my *Grundlinien des Rechts* (Berlin 1821), I can be more succinct here than concerning the other parts" (Enc 1827 and 1830: § 487). By comparing the texts, we can even argue that the *Encyclopedia* of 1827 is, in certain respects, closer to the *Grundlinien* than the version of 1817. Some evidence for this may be detected in the fact that, in July 1822, Hegel wrote in a letter to Duboc that the first version of the *Encyclopedia* urgently needed reworking (*Umarbeitung*).⁴⁰

A guideline for my interpretation will be that the meaning, structure, and "logic" of the *Grundlinien* must be discovered, as much as possible, through an immanent explanation; however, when necessary, help will be sought in Hegel's other mature texts. Concerning the much-debated question of which logic governs Hegel's philosophy of right, we should have recourse, in the first place, to the very text of 1820, but to discover which logical categories and connections govern certain passages, we must also be familiar with the first part of the *Encyclopedia* of 1817 and the *Logic* of 1812-1816, though we must not view the *Grundlinien* as

³⁹ Cf., for example, the references of the *Grundlinien* to the *Logic* (Grl, Preface section 18, p. 8; § 2 end of Remark) and to the *Encyclopedia* of 1817 (Grl §§ 4R, 7R, and 8R).

⁴⁰ Letter of 30 July 1822, *Briefe* II, p. 329. The most obvious difference between the first edition of the *Encyclopedia* and the later works lies in the fact that the former lacks a theory of the civil society, whereas the *Grundlinien* (1820) and the two other versions of the *Encyclopedia* (1827 and 1830) devote many sections to such a theory (Grl 182-256; Enc BC 523-534). The publication of Wannenmann's *Nachschrift* has revealed that that theory was already taught in the course of 1817-18, immediately following the first publication of the *Encyclopedia*. For a summary of the main differences between the *Encyclopedia* of 1817 and the *Grundlinien*, see *Principes* (Kervégan), pp. 5-6.

simply an “application” of the logic explained in the other books. In Chapter One, I will, as briefly as possible, deal with some logical assumptions without which Hegel’s philosophy of right cannot be understood.

Sources

We practice another kind of genetic explanation when we show how Hegel has integrated thoughts and arguments that were forwarded by other authors before him. In a historicist climate, this sort of “reduction” is favored. Without a doubt, this may illuminate many aspects of the work, but it cannot undo the originality of its own composition. In any case, any explanation by means of “influences” or “remembrance of the past” must submit to rigorous standards. Similarity between certain ideas, for instance, is not enough, since it could be explained otherwise than through immediate contact. By oversimplifying actual history, we can create relations that exist only in our heads. For example, depending on our own knowledge of the classics, we can imagine Hegel in dialogue with those philosophers who are known to us as more or less similar or dissimilar to Hegel. If we are to believe all the Hegel interpreters, his thought was formed by Plato, Aristotle, Plotinus, Proclus, Descartes, Leibniz, Spinoza, Montesquieu, Newton, Lessing, Rousseau, Kant, Goethe, Schiller, Mendelssohn, Jacobi, Reinhold, Fichte, Hölderlin, Schelling, Schleiermacher, Solger, and several others. Hegel must then have been reading night and day for more than a century. While he was indeed a voracious reader, genuine filiation must take its lead from solidly established literary contacts, although certain ideas were clearly “in the air” at the time.

In this book, I will not concentrate on the relations between Hegel and the great authors of his or our past, but rather on the internal meaning and coherence of his mature theory as presented in mainly one book. Obviously, the historical context cannot be neglected, but I do not claim to make new discoveries in this field.

The above notwithstanding, another contextualization is also required: How does Hegel’s book of 1820 relate to the legal, moral, economic, political, and religious culture of his country and time? How does it fit into the historical events and structures,

and how does it relate to the scholarly and other literature, including, for instance, the manuals of that epoch? In this respect, I will, likewise, rely on other scholars, without pretending to renovate this field of research.⁴¹

Texts and Translations

If the language in which a particular thought is written is inseparable from that thought, all translations are inadequate; they will inevitably conceal at least some of its aspects. If the language is exceptionally idiomatic or idiosyncratic, the difficulty of rendering it in other languages grows. For example, the difficulty of reading Aristotle in translation is well known. Many of his translated texts become clear only when they are accompanied by the original Greek. Hegel, whose idiom retrieves many expressions of Aristotle's technical vocabulary, understood the importance of translations, when he wrote the following in the draft of a letter to Johann Heinrich Voss, a famous translator of Homer into German:

Luther made the Bible speak German, you made Homer speak German — the greatest gift that can be given to a people; for a people is barbaric and does not see the excellent [things] it knows as its property as long as it does not know [them] in its own language [...] I want to try to teach philosophy how to speak German.⁴²

However, appropriation by translation does not abolish the necessity of scholarship, which is possible only on the basis of original texts. For this commentary, I have used the fourth edition

⁴¹ In addition to the studies quoted in note 28, see Reinhart Koselleck, *Preußen zwischen Reform und Revolution: Allgemeines Landrecht, Verwaltung und soziale Bewegung von 1791 bis 1848* (Stuttgart: Klett-Cotta, second edition, 1975), and "Staat und Gesellschaft in Preußen 1815-1848" in Werner Conze (ed.), *Staat und Gesellschaft im deutschen Vormärz* (Stuttgart: Klett-Cotta, 1967); M. Lenz, *Geschichte der Königlichen Friedrich-Wilhelms-Universität zu Berlin*, Volume 4 (Halle: Buchhandlung des Waisenhauses, 1910); and several studies in Hans-Christian Lucas and Otto Pöggeler (eds.), *Verfassungsgeschichte*, especially Pöggeler, "Hegels Begegnung mit Preußen" (pp. 311-352). See also Pöggeler's "Hegels Option für Österreich," in *Hegel-Studien* 12 (1977): 83-128. For a succinct study of the relations between Hegel's philosophy of right and the ALR (General Code of Law) of Prussia (1794) and some other documents of the epoch, see Rolf K. Hočevar, *Hegel und der Preußische Staat: Ein Kommentar zur Rechtsphilosophie von 1821* (München: Goldmann, 1973).

⁴² *Briefe* I, pp. 99-100.

of the *Grundlinien* as edited by Johannes Hoffmeister in the *Philosophische Bibliothek*, Vol. 124 (Hamburg: Meiner, 1955). For other works, I have used what is available in the critical edition of the *Gesammelte Werke* or else in the less scholarly *G.W.F. Hegel, Werke in zwanzig Bänden* (Frankfurt/Main: Suhrkamp, 1971 [Su]). For texts that cannot be found there, I refer to other editions, as indicated in the list of abbreviations on pp. xix-xxi, or in an accompanying note. Since the *Zusätze* to the *Grundlinien* are not reproduced in Hoffmeister's edition, I will cite them from volume 7 of Su. For the 1827 and 1830 versions of the *Encyclopedia*, I use volumes 19 and 20 of the *Gesammelte Werke*, but for the first edition (1817) I refer to the reprint of the original publication in Herman Glockner's *Jubiläumausgabe* of the *Sämtliche Werke*, volume 6 (Stuttgart: Frommann, 1956). When I quote the *Zusätze* to the *Encyclopedia* of 1830, they are taken from Su, volumes 8, 9, and 10.

All translations are my own, but once in a while I have been helped by some existing English translations. For the *Grundlinien*, I prefer the translation of H. B. Nisbet (*Elements*) because it remains closer to the German text than the earlier one by T. M. Knox (Knox). With regard to Hegel's technical vocabulary, I am in general agreement with the translation of the *Encyclopedia Logic* by T. F. Geraets, W. A. Suchting, and H. S. Harris (Indianapolis-Cambridge: Hackett, 1991).⁴³

Exegesis

When the *Internationale Hegel-Vereinigung*, which is one of the three international associations of Hegel scholars, was founded at the

⁴³ See especially their Glossary with explanatory notes on pp. 336-352. However, my translation of *Verstand* and *verständlich* will be different. I want to reserve the word "understanding" (which is also a good and accepted translation of the *Verstehen* that is essential in twentieth-century phenomenology) for its common use, without restricting it to the kind of analytic thought indicated by Hegel's *Verstand*. *Verstand* relates to *Vernunft* (reason) as the analytic or atomistic to the synthetic or integrative element of thought. Although it would be possible to express this difference by means of the contrast between "rational" and "reasonable," we would still be left with the difficulty of finding a substantive for *Verstand*. For the translation of "*Verstand*" and "*verständlich*," I use "intellect" and "intellectual" to bring out the contrast between the "intellectual" character of the (analytic) "intellect" and the "rational" (*vernünftig*, speculative and synthetic) character of "reason" (*Vernunft*). I will reserve "intelligence" for *Intelligenz*, whose activities are "intelligent." See Chapter One, pp. 56-60.

Hegel Conference of 1961 in Heidelberg, its first president, Hans-Georg Gadamer, set the agenda for the following years by insisting on the necessity of spelling out (*Buchstabieren*) Hegel's texts word for word. In a letter of January 1997, Rüdiger Bubner, who had been recently elected president of this association, praised the progress made in Hegel research, but he also emphasized that the task of a correct explanation remained unfinished. In the United States, however, rigorous exegesis of Hegel's dense and difficult texts is not in vogue. In general, the genre of exegesis and commentary is regarded with condescension. We can read for ourselves and one should have ideas of one's own, discuss Hegel's ideas as part of one's own thinking, and forward original or revisionist positions. Close reading, "literal commentaries," and "traditional" ways of interpretation do not merit high esteem; Hegel must be "read" in fresh, surprising ways. These preferences explain why, for example, Kojève's imaginative misunderstanding of the *Phenomenology of Spirit* and Georgy Lukács caricature of the young Hegel⁴⁴ have been accepted as serious commentaries, despite repeated refutations by (mostly European) interpreters.

Philosophers should indeed have ideas of their own, not because their opinions are so important, but because philosophy is a passionate engagement of responsible individuals in the search for truth. However, if some truth has already been discovered, it would be an error to replace it with something less true in the name of originality, even if that truth has become "traditional." But even if no truth can be found in a work of the past, interest in truth cannot excuse us from carefully reconstructing the meaning of such a work, if it still can play a role in our discussions. Before we criticize or transform a philosophical text, its own historical message must be allowed to speak to us. This receptivity is the historical equivalent of listening in a discussion. Why should we read Hegel, if we do not take seriously the intricacies of his own thought? How could he challenge us, if we allow him to say only what fits into our framework? Should not his texts instead provide us with the opportunity of taking a critical stance toward *our own*

⁴⁴ Georgy Lukács, *Der junge Hegel: Über die Beziehungen von Dialektik und Oekonomie* (Zurich: Europa Verlag, 1948), which was translated by Rodney Livingstone as *The Young Hegel: Studies in the relations between dialectics and economics* (Cambridge: MIT Press, 1976).

opinions, which might be more superficial or dogmatic than his? The monological character of the Western tradition has left us ill-equipped for the art of conversation, but two hundred years of hermeneutical and historical refinement have made possible a rather adequate reconstruction of Hegel's philosophy. Before venturing sensational "readings," intellectual integrity requires a patient deciphering of his difficult texts with all the philosophical, historical, interpretive, and logical means available. Without close reading it is impossible to avoid unilateral or distorted readings.

The study of Hegel is not well served by having him say what an interpreter prefers over his own "outdated" texts. When Hegel is used to strengthen the interpreter's own opinions or when the interpreter's own theory is superimposed on Hegel's texts, this might sometimes be due to an excessive respect for Hegel's authority. He is indeed a giant of thought, but his work is not the Bible and, regardless of what he himself or Kojève may have thought, his philosophy cannot replace any faith. To be clear on this point, my interest stems from sincere admiration and a long-standing struggle with Hegel's thought; but rather than considering him a pope or prophet, I see him as a most powerful and comprehensive, but questionable classic of the modern tradition. As a monument of modern thought, his system is one possible but partial summary of Western philosophy, while it also opens up some venues of the postmodern epoch in which we are involved. Hegel is a Janus between the time of "metaphysics" and the time of postmodern secularity.⁴⁵

The state of scholarship on Hegel does not justify the conclusion that his work is read well and widely understood. There are, for example, still scholars who prefer Kojève's "reading" of the *Phenomenology* over those who have set the record straight. Besides cultural and psychological factors, linguistic provincialism also hampers scholarship. For example, it is surprising to see how little use is made of the best French, German, and Italian scholarship in English publications.⁴⁶ Scholarly debate is most often restricted to

⁴⁵ More on this in the Epilogue of this book.

⁴⁶ Since one may assume that Hegel scholars are familiar with German, it is amazing that even leading German Hegel scholars, such as Otto Pöggeler, Hans Friedrich Fulda, Klaus and Edith Düsing, Ludwig Siep, Rolf-Peter Horstmann, Walter Jäschke, Burkhard Tuschling, etc., are almost absent from the American

those writing in English, but even such debates are rare. True, the flood of studies on Hegel that were published in the last fifty years makes it impossible to be up-to-date on the secondary literature, but monolinguistic restrictions easily convert scholarship into scholasticism.

Commentary

Contempt for exegesis is one of the greatest obstacles for a thorough reconstruction of Hegel's thought and a serious debate about his place and relevance in the history of philosophy. In fact, faithful commentaries make a great deal of scholarship superfluous. Admittedly, a nice essay, with some daring assertions, is more exciting and easier to read and to write; "literal" explanations demand more time, energy, and concentration than brilliant epilogues, but they are more useful for securing a common ground and continued scholarship.⁴⁷

How can a commentary be faithful to the text it explains? It excludes neither ideological distance nor transpositions and transformations, but it necessarily includes receptivity and methodological sympathy. It must also include selfless generosity to set the text free, letting it speak for itself. The best commentary in the end leads back to the very text, which has then become *readable*, i.e., so thoroughly understandable that it can be accepted as relevant, challenging, debatable. Many philosophical texts of the past cannot be appropriated or criticized without learned commentaries made possible by philosophical and non-philosophical skills. Let anybody who already knows the truth (e.g., "that democracy is the only valid system in politics," "that metaphysics is nonsense," "that science sets the standard for thinking") read Hegel as

discussion. The best French and Italian Hegel scholars (see notes 2 and 4 above) do not even appear to be known by name.

⁴⁷ In "Philosophieren und Kommentieren: Überlegungen zu ihrem Verhältnis" (in Hans Friedrich Fulda and Rolf-Peter Horstmann [eds.], *Vernunftbegriffe in der Moderne* [Stuttgart: Klett-Cotta, 1994], pp. 857-868, Barry Smith gives four reasons why "public commentaries" on Hegel's texts are sorely needed in Hegel scholarship (pp. 858-859) and he tries to explain why this is much less understood in English than in German language philosophy. The main reason I agree with his thesis is that excellence in reading and listening is a virtue that one cannot always presuppose among students and professors, even among those attracted to Hegel's complicated prose.

confirmation of his own important opinions! Whoever acknowledges that we need classics to overcome the superficiality of individual and collective *opinions*, even if these are popular among intellectuals, will recognize that we must let the classics speak before we subject them to our own “ideas.”

A remark by Hegel on public opinion might serve as a warning for those who hastily move from a first encounter with the text to their own original transposition. In reasoning about contingent and average opinions, Hegel writes:

The issue is awareness of the *peculiarity* of the view or acquaintance. An opinion is [. . .] more peculiar the worse its content is, because the bad is something whose content is entirely particular and peculiar; the rational (*das Vernünftige*), on the contrary, is what is universal in and for itself, while the *peculiar* is that on which having opinions *prides itself* (Grl § 317).⁴⁸

Nobody should be ashamed of patiently deciphering dense and enigmatic texts in order to free them from misreadings. The asceticism required of serious commentators brings them into the good company of Plotinus, who saw his work as an explanation of Plato’s dialogues, and Aquinas, who trained himself and others by writing commentaries on Aristotle. Contempt for exegesis amounts to solipsism: inability to listen prevents learning anything new. The time and energy spent on close reading is rewarded by greater freedom from prejudices, even if the study of the texts does not lead to appropriation.

Obscurities

Some interpreters complain about Hegel’s “obscurity.” Many deal with it by ignoring the sections they deem obscure, focusing instead on what they do understand in the hope that the obscure parts are not essential. For some scholars, entire works are obscure, for example the *Logic* and the *Encyclopedia*, but is this “obscurity” only Hegel’s fault or is it due to the veiled intellect of certain readers? Moreover, we might ask what the standards of

⁴⁸ The last words (“worauf das Meinen *sich etwas einbildet*”) play on the double meaning of “sich einbilden”: “to pride oneself” and — more literally — “to put images into oneself.” Opinions are, in part, the result of imagination, illusion, and hallucination.

clarity are and why all texts ought to be clear in the accuser's sense. Does not the requirement of a certain "clarity-above-all" condemn all thinking to superficiality? If texts are "clear," it is unnecessary to explain them; we can then immediately debate their relevance. What at first sight seems obscure, because it is unexpected or novel, might become transparent after careful study. If an argument does not fit into our own linguistic or imaginative or theoretical framework, or if we cannot understand it unless certain assumptions have been clarified, we might be tempted to defend our intelligence by calling the daunting text "obscure." Of course, obscurities may also be due to the writer's conceptual or linguistic weaknesses. A well-equipped reader might then be able to clarify what, in the awkward expression, still seems worth comprehending. However, some obscurities are quite appropriate and more meaningful than the flat clarifications by which they are often substituted. They frequently belong to the dimensions of religion, philosophy, and literature. The reason they cannot and should not be replaced by more obvious statements lies in their content: what they evoke is too sublime or mysterious or deep for the average or for any intellect. Life, love, death, evil, being, and so forth cannot be captured in the patterns of a crystal clear language or thought. Obscurity is here quite appropriate. In such cases, the demand for transparency expresses a desire that cannot be fulfilled except by distortions of the truth.

There are several kinds of obscurity in Hegel's texts. First, his language is not without grammatical and stylistic deficiencies. This becomes clear when you try to translate his texts. A translator is often confronted with the choice between correcting Hegel's text and reproducing its deficiencies in another language. In general I have preferred the second method.

Second, many passages of Hegel's work are so dense that a complete analysis yields a small treatise. This density expresses the extremely synthetic character of Hegel's thought: the comprehension of this or that particular topic brings together so many concepts and lines of thought from various parts of his system that one must already know much of what Hegel thinks to follow the topic at hand. Few other philosophers urge the reader to gather together so many interconnected elements in one idea. The Hegelian ideal of philosophy would be that we could think one

absolutely universal concept in which all things and true thoughts are concentrated. However, human finitude implies discursivity and this necessitates a linear sequence of one thought following upon another, while at the same time making us aware of the coherence that joins all the connected thoughts in one systematic whole. Without familiarity with the manifold of connections constitutive of Hegel's totality, his system remains unclear, but such a familiarity demands much time (and exegesis).

A third reason for Hegel's obscurity lies in the nature of the issues and the depth of his thought. Translations of his "metaphysical" work into a more superficial language, for example an empiricist one, eliminate this kind of obscurity, but it yields only parodies.⁴⁹

A fourth reason for obscurity lies in the basic postulate of Hegel's system itself. In writing this sentence, I anticipate a judgment to be justified later with regard to Hegel's thesis that the totality of all beings and true thoughts coincides with the fundamental and ultimate or absolute unity. According to Hegel, the One (*to Hen*) and the Whole (*to Pan*) are the same, but this cannot be true, as Plato, Aristotle, Plotinus, and most other thinkers of the metaphysical tradition knew. However, if the totality, composed of finite moments and relations, cannot be identical with the absolute, infinite, and originary One, then a fundamental impossibility penetrates the entire system, causing a pervasive obscurity.

If my diagnosis is correct, one might ask why so much time and energy should be spent on the study of a system that is infected with a basic inconsistency. We must realize, however, that it is exactly this inconsistency that makes him the Janus figure who tries to unite the great metaphysical tradition of Europe with the "unmetaphysical" totalitarianism of post-Hegelian attempts at positing history or matter or empirical factuality as the alpha and omega of existence and thought. That such attempts are no less metaphysical than Hegel's philosophy of absolute spirit is clear and certain. They differ, however, in their preference for less grandiose dimensions and a seeming modesty. They, too, consider

⁴⁹ Many passages of the student notes are clearer than most of Hegel's written texts; some, however, are obscure because either the student who tried to render what the professor said could not follow the explanation or perhaps because the professor was having a bad day.

the totality or the universe (*to pan*) to be the ultimate, but it has become "all too human," or worse — essentially material.

Reconstruction

The purpose of this book is to explain as clearly as possible the theory displayed in Hegel's text of 1820. Ideally, this involves the clarification of its method and meaning, the explication of the logical structure that rules the argumentation, the analysis of its composition, the determination of its function within the entire system, and some observations about its relevance for us.

The logic of the *Grundlinien* is not made explicit in the text itself and nowhere else has Hegel devoted a metaphilosophical treatise to the connections between his logic, including his methodology, on the one hand, and the philosophy of "right" or, in general, his *Realphilosophie*, as we are wont to call the whole of his philosophy of nature and spirit, on the other. The first sections of the *Grundlinien* contain a few remarks concerning those connections, but they are too general to answer the question of how the book's logic is structured. They do not support the claim that we should read the *Grundlinien* as a mere application of the published *Logic*, as some interpreters have tried to do. It is obvious that the *Rechtsphilosophie* employs many categorical structures analyzed in the *Logic* and the *Encyclopedia*, but how are we to determine the parallels and the order? Do they form one coherent pattern that would be typical for "right"? If so, how? That these and similar questions cannot be neglected is confirmed by many remarks in the *Grundlinien* about the indispensable role of the "scientific procedure," which "is presupposed here from the philosophical logic" (Grl 2R, end).

One of the issues this commentary hopes to clarify to some extent, is the question of the logic that is here operative in a mostly implicit manner. To realize this purpose, we need, among other things, an overview of the entire content of the *Rechtsphilosophie*, as displayed in 1820. The composition that then appears gives us some clues, but it does not clearly display an overall logical pattern. Only a patient reconstruction of the logic that is operative in the various parts of the book and their relations can shed light on the question of the implicit logical structure.

Another directive toward a reconstruction of the logic of the *Grundlinien* is found in Hegel's methodological practice, which uses devices of eighteenth-century manuals. For example, Hegel's treatises frequently begin with a determination of the topic, which is similar to the definition⁵⁰ of Wolffian scholasticism. Hegel prefers to speak of the topic's "abstract concept," a concept that must be developed into the concrete concept or idea of that same topic, which idea is discovered only at the conclusion of the treatise. The idea has the structure of a syllogism, but it comprehends all its components and connections in one insight. Each particular treatise focuses on the conceptual analysis of the studied topic. The constitutive elements (or "moments") that are thus discovered are implicitly contained in the initial (abstract or immediate) concept, but analysis is necessary to show how the components constitute the synthesis of the concrete concept that appears at the end. After the definition and its application, the analysis begins with an articulation or "division" (*Einteilung*), which is Hegel's way of retrieving the traditional *divisio*. The analytic process lies, as an intermediate phase, between the beginning and the end of each treatise; it dissolves the unity of the initial concept by determining the necessary distinctions and relations through which its various moments are held together and apart. The concrete concept or idea, which is the result of the "deduction" (in which we recognize the so-called "proof" of the handbooks) contains a new concept; the end of the analysis is at the same time an insight into the analyzed topic *and* the birth of another (still) abstract or immediate concept, which is inseparable from the first because, in a radical and essential way, it coincides with it.⁵¹

These preliminary indications might provide a provisional sketch of Hegel's procedure. They already show that "the logic of the concept" (i.e., the third part of Hegel's logic following (1) the

⁵⁰ Hegel sometimes calls it "the so-called definition." Although he prefers *Bestimmung* (determination) or *Begriff* (concept), I will often use the word "definition" because of our familiarity with its (seemingly clear?) meaning. Whereas Hegel might have heard vestiges of "the old metaphysics" in the word "definition," it can serve as a provisional place-holder for his more technical expressions.

⁵¹ For further explanation of the preceding and following provisional statements with regard to Hegel's logic, see Chapter One below.

logic of being and (2) the logic of essence and appearance or logic of reflection) plays a leading role. This must be expected if Hegel's purpose is not only to illuminate the problematical character of "right" but primarily to achieve comprehension. However, certain aspects and forms of right cannot be comprehended as fully formed concepts; they are *subordinate* elements of more encompassing wholes. In order to understand them we need to be familiar with the incomplete realities whose basic structures are expressed in categorical structures of the first two (still abstract) parts of Hegel's logic.

The Place of the Rechtsphilosophie

Hegel's basic postulate is that the totality of all beings coincides with the oneness of the Absolute that permeates all parts of the universe. This implies that the truth of each and every part of the universe depends upon its connection with everything else. The place and function of each issue within the whole of the system is thus co-constitutive for the true determination of that issue. Nothing can be comprehended in isolation. Before we follow the steps of Hegel's treatise on "right," we must, therefore, be aware of its place and function within the universe of Hegel's systematic thought. At the same time, however, an insight into "right" is a condition for comprehending the composition and truth of the entire universe of being and thought. We must, therefore, learn how to study "right" (and the same is necessary for all Hegel's treatises) from both the perspective of the whole and the perspective of the parts (or "moments") simultaneously.

Hegel's logic requires that philosophy develops as the "systematic totality" of a "system."⁵² If it succeeds in this endeavor, its conclusion can be unfolded from any of its parts. The presentation of philosophy in the *Encyclopedia* begins with the most abstract and indeterminate but all-encompassing category of the logic, i.e., being (*Sein*), and ends with the all-encompassing, most concrete and perfect idea, i.e., absolute knowledge. Since both the beginning and the end are all-encompassing, the unfolding of Hegel's system can be understood as an ongoing clarification of one and

⁵² GW 11, pp. 249-250; Enc A 190, BC 243.

the same subject: *the all-encompassing whole*, which Hegel identifies as *the absolute*. Only in the end is the absolute (which is the origin *and* the universe) revealed in its full richness. At the beginning it demonstrates almost nothing of this; it is wholly indeterminate or “being” (*Sein*) without any qualification. Nevertheless, “being” contains everything that will later be disclosed as its internal differentiation. This disclosure — the progressive self-revelation of the absolute as being — is ruled by one basic principle that should never be forgotten when reading Hegel: as the science of reason, philosophy develops and knows itself as the identity of *reason* with *all being* (Enc A 5). What reason thinks — the truth of its issue — is identical with the issue as it truly is. Truth is not correspondence, but *identity of being and thought*, as Aristotle had already said. For Hegel, this means that it is impossible to distinguish between *logic*, as a treatise on the formal determinations of abstract thought, and general *ontology*, which exhibits the formal determinations of being.⁵³

The three main stages of Hegel’s systematic unfolding of the truth are three modes of disclosure in which the all-encompassing absolute (i.e., the universe) reveals itself. The *logic* (or general *ontology*) reveals the formal structure of the universe (or the truth) as it presents itself to pure thought; the *philosophy of nature* reveals the absolute as “fallen” and “lost” in the spatio-temporal materiality of nature, which it needs in order to reveal and actualize itself; the *philosophy of spirit* is the absolute insofar as it integrates its natural existence into its spiritual activity, while organizing the universe as the differentiated actuality of itself according to the pattern of its onto-logical structure. The names of the absolute that summarize the three stages of its self-realization are *idea*, *nature*, and *spirit*. As *idea*, the absolute reveals the formal structure of the coincidence of abstract being and abstract thought. In *nature*, the absolute is externalized; it appears to fall away from itself, however, philosophical reflection discovers that this externality conceals and obscurely expresses the absolute’s inner life, which is revealed more clearly in its revelation as *spirit*.

To gain insight into that particular dimension of the spirit’s unfolding, which Hegel calls “right” — and which encompasses his

⁵³ See Chapter One, pp. 60-72.

entire legal, moral, economic, political, and world historical philosophy — we must understand the place and function of “right” in the systematic totality. This issue will be clarified in the following chapters from the perspective of the spirit itself. Here it may suffice to state that Hegel’s philosophy of right represents the objective externalization of the spirit in its own spiritual dimension, a “second nature” that has several characteristics in common with the absolute’s self-alienation of the spirit in (the first) nature. This position of right is not compatible with the thesis that Hegel understood “right” as the complete actuality of spirit.

The Historical Context

My emphasis on the exegetic task of a commentary does not imply any contempt for the study of the historical context, the ideological influences, and Hegel’s own biographical development, all of which have played a role in the genesis of Hegel’s philosophy of right and its meaning for himself, his contemporaries, and later generations. Having done research in this field⁵⁴ and profiting from the good work of other authors, I gratefully utilize their results; here, however, I will limit myself to a few remarks on the hermeneutical relevance of historical contextualization for the understanding of the *Grundlinien*.

First of all, this commentary studies Hegel’s *Grundlinien* as a philosophical text. It focuses, therefore, much more on his arguments than on his opinions. It does not seem relevant to me to know whether Hegel had “liberal,” “democratic,” conservative, reactionary, or servile opinions, unless we can prove that such opinions are the unjustified premises of his argumentation. At times Hegel’s text may conceal his real thought, but what counts primarily in philosophy is the way in which the texts make a case for the conception that is forwarded.

Second, not myself a believing Hegelian, I feel free to disagree with him if it seems warranted. My primary concern in this book is not to decide whether Hegel’s theses are right or wrong, however. A scholarly critique of his position would require that I first justify my own point of departure and the criteria to which I appeal, but

⁵⁴ Cf. *Le jeune Hegel and Philosophy and Politics*.

that can only be done in another book, for which this one is a propaedeutic. Occasionally I will contrast Hegel's conception with other views, without altogether silencing my own preferences, but throughout I will try to make his arguments as strong as possible in order to avoid cheap refutations from which nobody learns anything. Hegel's relevance cannot be measured by the ethical, political, or religious likes and dislikes of the intellectuals of our time. Neither Hegel, nor the American ethos of the twenty-first century have authority over philosophy. Instead of trying to mould his texts into agreement with our own preferences, we must give him a chance to challenge us by approaching him in a manner that respects what he was.

Third, one more remark on "influences." By discovering what Hegel learned from others through reading and assimilation, we can more easily understand how he came to his own thought; however, such discoveries do not fully explain why and how he transformed others' ideas into elements of his own arguments. The latter question is the most important for this book: how does Hegel integrate others' ideas into a context different from the one in which they were located? Besides a specific art of reading, personal experiences and meditations played a role in this integration, which brings us back to the biographical perspective on his life and work.

A fourth remark concerns the anachronistic assumption that *our* classics must be the main sources from which Hegel borrowed ideas. Many works that Hegel was familiar with are hardly known today. Very few scholars of our time have read, for example, the publications of Mendelssohn, Jacobi, Reinhold, Bardili, Schulze, Solger, and Fries; even fewer pay attention to the textbooks and lectures that Hegel studied in high school and seminary. Yet we know through experience how prevalent and persistent one's first formation in philosophy can be. If we neglect the actual history, we may be tempted to follow Kuno Fischer and Richard Kroner by presenting Hegel's participation in philosophy as an ongoing discussion with Kant, Fichte, and Schelling. In his lectures on the history of philosophy, Hegel himself gives a similar presentation, but he knew that the sequence Kant-Fichte-Schelling-Hegel did not mirror the chronological development of his own thought. Other influences (e.g., Plato, Montesquieu, Lessing, Rousseau,

and Hölderlin) played an early and crucial role, and some of his basic convictions were established before he seriously studied the theoretical parts of Kant's and Fichte's works. To what extent Hegel followed the various traces left by some of our classics is a legitimate and difficult question, but answers can only be found on the basis of a thorough understanding of individual works. Until such understanding is acquired, the interpretation of broader constellations cannot be more than a provisional sketch.

Plan

This commentary will follow the order of deduction that is presented in Hegel's book of 1820 — an order he also adopted, with minor variations, in the three versions of his *Encyclopedia* and all of his courses. However, the content and especially the form of the *Grundlinien* cannot be isolated from other parts of Hegel's oeuvre, in particular, his logic and his philosophy of subjective spirit. Therefore, in Chapter One, I will present a summary reminder of some parts of Hegel's logic, and in Chapter Two I will explain how Hegel understands spirit and freedom, which are often taken in an un-Hegelian or anti-Hegelian way—even by interpreters of his work.

With regard to Hegel's famous (or infamous) Preface, I will refer the reader to *Philosophy and Politics*, which offers a detailed explanation of its rhetorical and philosophical aspects and the political circumstances in which it was written. Since the Preface is a mixture of popularized philosophy and political preferences, personal ambitions, and strategic claims, it is not recommended as an introduction to Hegel's thought; a careful disentangling of its many motifs should enable the reader to distinguish the properly philosophical content in this manifesto. In the present book, following the second chapter on "spirit," I will, in Chapter Three, proceed to the Introduction of the *Grundlinien*.

One caveat, however, must be issued due to a prejudice that has found more approval in America than in Europe. Karl-Heinz Ilting's thesis that, out of fear of the censor, Hegel shows an opportunistic servility by hiding his real thought about politics in the *Grundlinien* and especially in the preface, has generated a fierce debate in Germany. Horstmann, Lucas, Ottmann, Pöggeler,

Rameil, Siep, and others have proven that Ilting's thesis is either incorrect or grossly overstated.⁵⁵ Though Hegel is careful to

⁵⁵ Some of the documentation for this discussion is found in Ilt 1, pp. 23-126; Rolf-Peter Horstmann, "Ist Hegels Rechtsphilosophie das Produkt der politischen Anpassung eines Liberalen?," in *Hegel-Studien* 9 (1974): 241-252; Henning Ottmann, "Hegels Rechtsphilosophie und das Problem der Akkomodation: Zu Iltings Hegelkritik und seiner Edition der Hegelschen Vorlesungen über Rechtsphilosophie," in *Zeitschrift für philosophische Forschung* 33 (1979): 227-243; Hans-Christian Lucas and Udo Rameil, "Furcht vor der Zensur? Zur Entstehungs- und Druckgeschichte von Hegels Grundlinien der Philosophie des Rechts," in *Hegel-Studien* 15 (1980): 63-93; Ludwig Siep, "Intersubjektivität, Recht und Staat in Hegels 'Grundlinien der Philosophie des Rechts,'" in *Theorie*, pp. 255-276; Karl-Heinz Ilting, "Zur Genese der Hegelschen 'Rechtsphilosophie,'" in *Philosophische Rundschau* 30 (1983): 161-209; Hans-Christian Lucas, "Recht der Vernunft versus privates Recht: Vorläufige Bemerkungen zur Vorgeschichte von Hegels 'Grundlinien der Philosophie des Rechts,'" in *Hegel-Jahrbuch* 1984-1985: 81-96; Ludwig Siep, "Hegels Heidelberger Rechtsphilosophie," in *Hegel-Studien* 20 (1985): 283-291; Otto Pöggeler, "Einleitung," in the edition of Wannenmann's *Nachschrift* (Wa), pp. ix-xlvi, and "Hegels Begegnung mit Preußen," in *Verfassungsgeschichte*, pp. 311-352.

If the main text of the *Grundlinien* is read before the Preface, which was written later, and if the rhetorical genre of the Preface is well understood, it becomes obvious that Ilting's hypothesis exaggerates a difference in accent between the published text and some reports on Hegel's lectures. My own thesis is that Hegel's book is indeed less emphatic on some points that would have displeased the king and other reactionary minds than on points that discredited progressivists like Fries and many students, some of his own students included (cf. *Philosophy and Politics*, pp. 20-31, 52-70, and 80-84). Hegel's philosophical theory did not waver between a conservative or reactionary and a liberal stance, however. See also the summary and conclusion of Jean-François Kervégan in *Principes* (Kervégan), pp. 17-21. In an attempt to demonstrate Hegel's advanced liberalism, Shlomo Avineri (*Hegel's Theory of the Modern State* [Cambridge: Cambridge University Press, 1972], pp. 130-131) and Jacques D'Hondt (*Hegel en son temps* [Paris: Editions Sociales, 1968]); "Hegel clandestin," *Pensée*, n. 133 (1967), pp. 97-102; and *Hegel secret* [Paris: Presses Universitaires de France, 1968]) have argued that Hegel maintained good relations with some of his progressive students, whom he tried to protect when they got into trouble with the police. D'Hondt has also done historical research on Hegel's sources and his relations to the freemasonry of his time and claims that there is a secret thought behind the mask of Hegel's written work. Despite Henry S. Harris' disagreement with my evaluation of D'Hondt's view (see Harris, "How Philosophy 'instructs the world,'" *Laval théologique et philosophique* 51 (1995): 314, n. 2, and 318, n. 6), I maintain my position that D'Hondt's portrait of the liberal Hegel presents us with "a one-sidedly progressive image" (*Philosophy and Politics*, p. 29, n. 7). For a well-argued refutation of D'Hondt's thesis, see Claudio Cesa, "Hegel segreto?" in Cesa, *Hegel filosofo politico* (Napoli: Guida, 1976), pp. 83-103. In D'Hondt's recently published biography, *Hegel: Biographie* (Paris: Calmann-Lévy, 1998), in which the author provides interesting, previously unknown details of Hegel's life, he continues to present us with the portrait of a very liberal and progressive Hegel. As he himself puts it, he emphasizes those aspects of Hegel's life and thought "that others have too much neglected out of

downplay his disagreements with the conservative authorities while exaggerating his criticisms of the liberals who are his main target in the Preface, a comparison of his writings and the course notes spread out over fifteen years (1817-1831) shows a fundamental continuity in his position. Some changes, such as the appearance of civil society in the winter of 1817-18 and Hegel's change of mind with regard to the Anglo-Saxon jury system, are not unimportant, but they do not express a fundamental shift with regard to the main questions of liberalism, conservatism, or servility. In any case, the interpretation of the *Grundlinien* should not be burdened from the outset by the suspicion that Hegel's text does not express what he really thought. Even if he were a hypocrite or a liar, we would still have to know *what his work says*.

I will treat Hegel's texts as philosophical in the classical sense, i.e., as texts that both try to *prove* that things are as their author thinks they are and explain *why*. Such a treatment must state Hegel's position (which, if not demonstrated, remains only an opinion) and paraphrase his arguments; however, it should not stop at that. In a second-order reflection, it must also show how Hegel proceeds, which assumptions support his arguments, within what mindset his thinking moves, and toward which end he is oriented. The reconstruction of Hegel's argument must, therefore, be accompanied by a meta-reflective moment. Its purpose is thus not to present Hegel as an ideological authority, but rather as a classic of Western philosophy. This endeavor presupposes admiration as well as critical distance. It aims at a reconstruction of Hegel's deductions, but it also *prepares* an answer to questions of our own, such as the following: What can *we* learn from Hegel? How can we retrieve his writings? How shall we respond to the challenge they contain? Which role do they or should they play in our genealogy? What is a responsible way of handing them over to

ignorance or malevolence," while himself "taking the risk that he might exaggerate in the opposite direction" (p. 7). Another recent biography, *Hegel und die heroischen Jahre der Philosophie* (München: Hanser, 1992), presents a portrait of Hegel that is diametrically opposed. The author, Horst Althaus, repeating an old "myth," calls Hegel "the Prussian state philosopher" (p. 328) and "man of the Restoration, monarchist of strict observance" (p. 580). Thus, even the life of Hegel has become an issue on which right and left Hegelians are split. Was Hegel too complicated, or too much of a Janus, to be understood in a non-unilateral, dialectical, rational way?

another generation of seekers who think that philosophy is still relevant for the future of civilization? Obviously, these questions point beyond the limitations of a commentary, but they indicate an interest that will be expressed in some hints and critical considerations.

A Selection of Studies

The abundance of secondary literature on Hegel's work has made it impossible to be up-to-date on all of it, or even to be knowledgeable about the best studies that have appeared in the last twenty years. Each bibliographical selection is therefore risky and presumably unfair to many authors. However, the risk must be taken, not only because even a partial selection might be useful for beginning Hegel scholars, but also because the present author must express his gratitude toward those scholars from whom he learned much of what this book is meant to pass on to others.

Some good studies on particular topics within Hegel's philosophy of right will be cited in the notes of the relevant chapters. Here I will recommend only those interpretations of the entire *Rechtsphilosophie* that I consider particularly helpful, even if I do not always agree with the interpreter.

Secondary Literature on Hegel's Rechtsphilosophie

Amengual, Gabriel (ed.). *Estudios sobre la 'Filosofía del Derecho' de Hegel*. Madrid: Centro de Estudios Constitucionales, 1989. In his *Introducción*, pp. 11-65, Amengual provides a rather complete overview of the studies of the *Rechtsphilosophie* that have appeared in the Western world between 1945 and 1989.

Anghehrn, Emil. *Freiheit und System bei Hegel*. Berlin: De Gruyter, 1977.

Avineri, Shlomo. *Hegel's Theory of the Modern State*. Cambridge: Cambridge University Press, 1972.

Bodei, Remo. "Studi sul pensiero politico ed economico di Hegel nell' ultimo trentennio," in *Rivista critica di storia della filosofia*, 27 (1972): 435-466. This essay is an overview of the secondary literature from 1940 to 1976.

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- Siep, Ludwig (ed.). *G.W.F. Hegel: Grundlinien der Philosophie des Rechts*. Berlin: Akademie Verlag, 1997.
- Smith, Steven. *Hegel's Critique of Liberalism: Rights in Context*. Chicago: University of Chicago Press, 1988.
- Steinberger, Peter J. *Logic and Politics: Hegel's Philosophy of Right*. New Haven, Conn.: Yale University Press, 1988.

- Taylor, Charles. *Hegel and Modern Society*. Cambridge: Cambridge University Press, 1979.
- Weil, Eric. *Hegel et l'état*. Paris: Vrin, 1950.
- Westphal, Kenneth. "The Basic Context and Structure of Hegel's *Philosophy of Right*." *The Cambridge Companion to Hegel*. Cambridge: Cambridge University Press, 1993, pp. 234-269.
- Westphal, Merold. *Hegel, Freedom, and Modernity*. Albany: State University of New York Press, 1992.
- Wood, Allen. *Hegel's Political Thought*. Cambridge: Cambridge University Press, 1990.

CHAPTER ONE

LOGIC

Those who believe that they can do without demonstrations and deductions show that they are still far from the first inklings of what philosophy is. They may let themselves hear in other matters, but in philosophy, those who avoid conceptual insight do not have any right to talk (GrI 141R).

Hegel's philosophy of "right" encompasses various disciplines: philosophy of law, moral philosophy, philosophy of family life, philosophical economics, political philosophy, and philosophy of world history. All these disciplines are so intimately connected that they cannot be developed in isolation from one another, but their unfolding also presupposes a host of concepts and procedures that cannot be justified within these disciplines. Hegel himself indicates two main groups of such assumptions: (1) those concerning the method (i.e., the logic or form) of philosophy, and (2) those concerning the issues (the specific content) that must have been comprehended before the various concepts and realities of "right" can be clarified.¹ The priority of these assumptions places the interpreter of Hegel's *Rechtsphilosophie* in a difficult position. While Hegel's *Logic* is an attempt to justify the first group of assumptions, it is not clear that Hegel himself was fully aware of all his own logical assumptions. Furthermore, one must ask how a study of his philosophy of right can also offer sufficient explanation of the material that is contained in the three volumes of his *Wissenschaft der Logik*.²

¹ GrI 2R end: "Acquaintance with the scientific procedures of philosophy must here be presupposed, as explained in the philosophical logic." See also GrI 31: "The method [...] is here [...] presupposed as explained in the logic." Cf. § 1, 3R, 5R, 6R, 7R, 31R, 32 & R.

² Hegel offered shorter versions of his logic in the three versions of his

One alternative, which some commentators have opted for, is to concentrate on Hegel's opinions without worrying about the methodological and demonstrative principles that support their claim to truth. These commentators regard his work as an instance of ideology rather than as a philosophical monument. In contrast, those who consider the *Grundlinien* to be a classical text from which philosophers can still learn are obliged to reconstruct the logical justification of Hegel's position. To tell what he "thought" without also explaining why he could present it as demonstrated truth, might be interesting for a history of "ideas," but not for philosophy.

To resolve the problem, albeit in a provisional and approximative way (but isn't all philosophy provisional and approximative?), I will begin by sketching some of the basic principles of Hegel's logic, while leaving a more detailed explanation to later chapters.

Truth

Hegel did not write a book on "right" to establish new truths about right, morality, ethics, or the state. Philosophers are neither explorers nor prophets; instead of discovering unknown facts or announcing the future, they try to comprehend what is occurring in the real world.³ In philosophy, in addition to the content of the

Encyclopedia (Enc A 12-191; BC 19-244); however, because of their extreme density, these are almost incomprehensible if they are not accompanied by the explanations contained in the *Logic* of 1812-1816. To counter the difficulties created by the second group of assumptions that I mention, Hegel offers an easy, though more didactical than logical, solution: readers who have not yet studied his philosophy of the will and other issues relevant to his treatise on right may appeal to the naive representation of those issues as they are present in the reader's prephilosophical consciousness. "With regard to the moments of the concept of the will, as indicated in this [§ 4 & R] and the following sections [. . .], everyone can appeal to one's own self-consciousness in order to have a representation of them." Every individual can immediately discover the determination of willing in his or her own consciousness (GrI 4R, toward the end). The difference between such a consciousness of the will and a philosophically sophisticated consciousness lies, of course, in the doxastic character of the former.

³ Cf. the fifth section of the Preface to the *Grundlinien* (pp. 5-6): "[. . .] the truth about *Right*, *Sittlichkeit*, and *the State* is [. . .] *publicly displayed and known*. What more does this truth need — insofar as the thinking spirit is not content to possess it in this immediate mode — than to also *comprehend* that truth and to acquire the rational form for the content, which, in itself, is already rational.

issue, truth includes the rational form that “informs” the content and makes it understandable. According to Hegel’s deepest conviction, we do not fully understand or comprehend if we do not have a conceptual insight into the issue at stake, and such insight can only be the result of a rigorous proof (*Beweis*) or deduction (*Deduktion*). A successful proof explains why the issue is such as it is; it reveals the rational necessity of its “being-there” (*Dasein*), its essence, its conceptual structure, its “ideality.”

The method that allows us to understand the rationality of an existing reality is the logic that not only rules a truth-oriented thinking, but also, as onto-logic, rules that very reality. Though this logic differs from traditional logic in many ways, it does not abolish the latter, but presupposes it.⁴ The most fundamental differences between traditional logic, as it was handed down in the eighteenth century, and Hegel’s own “speculative” logic, are the following:

(1) Hegel’s logic is not a system of merely subjective categories and rules that must be applied to an objective reality. The structure of speculative thought is (identical with) the structure of the reality that is comprehended by that thought.

(2) The traditional logic is a logic of the intellect (*Verstand*), which, though capable of analysis, cannot fathom the unity of all categories and the ways in which they pass over into one another.

Then this content will appear justified for free thought, which does not stop at the *given* [. . .] but demands to know itself as innermost united with the truth.” For commentary on this passage, see *Philosophy and Politics*, pp. 52-59.

⁴ In 1822, the Royal Ministry for Education asked Hegel’s advice about teaching philosophy at the *gymnasium* (high school) level. In his response given on April 16, 1822, Hegel recommended that students be taught the basic elements of the *traditional* logic, especially the traditional doctrine of the various kinds of concepts, judgments, syllogisms, definitions, divisions, demonstrations, and scientific methods. Though the students did not particularly enjoy this subject matter, Hegel felt it was very important that they studied it at least once in their high school career. In order to convince the government of the feasibility of a high school course on formal logic, Hegel appealed not only to his experience as rector of the Nürnberg *gymnasium* from 1808 to 1816 but also to his own adolescence: “[. . .] I remember, that I, twelve years old [. . .] learned Wolff’s definition of the *idea clara*, and when I was fourteen knew by heart (and therefore still know) all the figures and rules of the syllogisms” (*Berliner Schriften*, pp. 548-550). Regarding the deficiencies of the existing manuals of logic and the difficulty of replacing them with up-to-date ones, see Hegel’s letters of May 20, 1808 and March 24, 1812 to his friend Friedrich Immanuel Niethammer (*Briefe* I, 228-230 and 397-398).

An adequate understanding of Hegel's work will require the elaboration of both of these points.

Reason (Vernunft) and Intellect (Verstand) (Enc A 1-3)

The *Encyclopedia* of 1817 begins by contrasting philosophy with all other sciences. While these take their departure from an object that is immediately given in perception or feeling or some other kind of "representation" (*Vorstellung*), philosophy is concerned only with the necessity (*Notwendigkeit*) of its objects, relations, and structures, and the universal coherence of all reality. Even the immediately given being-there and the definition of its objects cannot be taken for granted; they must be understood as necessary (Enc A 1). Thinking must discover *that* and *how* all things that are there (*vorhanden*) as immediate(ly given) are at the same time the realization or being-there (*Dasein*) of an immanent necessity: their essence and idea. Philosophy is "the conceptual knowledge of the necessity [of all that is]." It cannot rely on any authority: neither the authority of general opinions and common sense, nor that of immediate feelings or observations.⁵ Indeed, conceptuality is synonymous with thought insofar as this must be distinguished from other forms of contact with things. Only thinking reaches truth; only the concept is the adequate form in which things reveal what they "actually" or truly *are*. Only in thought does being become true.

The intellect (*Verstand*) is an essential element in the production of thought (or truth), but it is only an element. Its strength lies in its ability to make distinctions and to discover differences, contrasts, and contradictions. If the intellect regards itself as independent, however, pretending to possess the absolute standard for truth, it generates all sorts of dualism, for it is incapable of synthesizing the moments that are distinguished through analysis.⁶

⁵ Enc A 1-3R. See also *Logic* (1812-13), GW 11, p. 20: "In that [usual] method of beginning the science with its definition, it is impossible that the *necessity* of its matter and therewith of this science itself be shown."

⁶ The distinction between *Verstand* and *Vernunft* (cf., for example, Gr1 2R, 3R, and 141R) is a modern version, thematized particularly in German Idealism, of the medieval distinction between *ratio* and *intellectus*, whose Greek roots can be found in the contrast between *dianoia* and *nous*. The standard translation of *Vernunft* is "reason," while the adjective *vernünftig* is generally translated as

"rational." As already noted above (Introduction, n. 43), the latter, however, could be translated as "reasonable" if this word could be reserved for Hegel's technical meaning of *vernünftig*. In that case, one could avoid evoking the *verständige* connotations of the English "rational" as it is commonly used in twentieth-century Anglo-American philosophy. The translation of *Verstand* as "understanding" unfortunately evokes the phenomenological, and especially Heideggerian, notion of *Verstehen*, which is diametrically opposed to the analytic procedures of the *Verstand*. Though somewhat reluctantly, I will use "reason" and "rational" for *vernünftiges Denken*, while translating *Verstand* and *verständlich* as "intellect" and "intellectual." For a discussion of Hegel's understanding of the relation between *Verstand* and *Vernunft*, see the contributions of Jacques D'Hondt, André Doz, Klaus Düsing, and Angelica Nuzzo in Hans Friedrich Fulda and Rolf-Peter Horstmann (eds.), *Vernunftbegriffe in der Moderne* (Stuttgart: Klett-Cotta, 1993), pp. 235-285.

In Enc A 13-16 (integrated in Enc B and C 79-82), Hegel describes correct thinking as the methodical interplay of three moments, which he characterizes as (a) abstract and "intellectual" (*verständlich*), (b) dialectical or negatively rational (*negativvernünftig*), and (c) speculative or positively rational (*positivvernünftig*). In the preface to the first version of the *Logic* (1812), the description is even shorter: "The intellect (*der Verstand*) determines and adheres to the determinations; reason (*die Vernunft*) is negative and dialectical because it dissolves the determinations of the intellect into nothing; it is [also] positive because it generates the universal and subsumes the particular under it." See also GW 11, pp. 26-27 on the difference between the dialectical and the speculative moments of thought. Here Hegel also explains the extent to which his dialectics differ from those of Plato and Kant. Fine explanations of Hegel's dialectic and its sources are given by Klaus Düsing in the following articles: "Ontologie und Dialektik bei Platon und Hegel," in *Hegel-Studien* 15 (1980): 95-150; "Identität und Widerspruch: Untersuchungen zur Entwicklungsgeschichte der Dialektik Hegels," in *Giornale di Metafisica* 6 (1984): 315-358; "Syllogistik und Dialektik in Hegels spekulativer Logik," in Dieter Henrich (ed.), *Hegels Wissenschaft der Logik* (Stuttgart: Klett-Cotta, 1986), pp. 15-38; "Hegels Dialektik: Der dreifache Bruch mit dem traditionellen Denken," in Hans-Dieter Klein and Johann Reikerstorfer (eds.), *Philosophia perennis: Erich Heintel zum 80. Geburtstag* (Frankfurt/Main: Lang, 1992), pp. 126-138.

In the *Grundlinien*, "Dialektik" and "dialektisch" are used to indicate conflicts of drives (§ 17) or the finitude of certain determinations (§ 26R; cf. also § 140R, p. 137), but sometimes *Dialektik* encompasses the positive result of the dialectical mediation, for example in § 31R: "The higher dialectic of the concept is to produce and capture the determination not merely as a boundary and opposite, but [also to produce and capture] the positive content and result out of this determination [. . .]." Because Hegel does not often use the word "dialectic" to indicate the positive side of rationality, the predicate "dialectical" is less appropriate to characterize Hegel's entire method. His own use is closer to the ancient and Kantian meaning of *dialectica* than to the post-Marxian use; most often, it is reserved for the negative moment, whereas he prefers "speculative" to characterize the complete and true nature of thought. Cf., e.g., Enc C 79 & R.

A rigorous justification of Hegel's method is given in the last chapter of his *Logic*, GW 12, pp. 237-253. In the courses on the philosophy of right, *Dialektik* is mentioned, e.g., in Ilt 3, 139 ("dialectics means in general that something finite pretends to be, though it is not insofar as it has its limit in itself") and Wa 273 ("all that is limited, is dialectical in itself"). Failure to see that Hegel does not

The abstract moments of its reflection are then transformed into petrified atoms, but such a drastic transformation of dialectical moments into separate entities distorts or destroys their truth. Though analytic thinking is indispensable for any correct thought, it would be a flagrant contradiction to think of Hegel's work as capable of being translated into an analytic language.⁷ But without the preparatory work of the intellect, reason would remain naïve or — if it tried to formulate a theory — confused.

"Spirit" is Hegel's name for the source that enables intellect and reason to cooperate.

In its truth, reason is *spirit*, which is higher than both; [it is namely] intellectual reason or rational intellect. It [. . .] negates the simple, thus positing the determinate distinctions of the intellect; it also undoes (*löst auf*) them, thus being dialectical. However it does not stay with the nothing of this result, but is equally positive therein by restoring the initial simplicity, but [now] as a universality that is concrete in itself.⁸

stop at the second, intellectual, and (negative-)dialectical stage of knowledge leads to a reading that is more Kantian than Hegelian. Reluctance to recognize that the oppositions between, e.g., idea and nature or substance and subject, are only provisional and not yet fully true leads to a misunderstanding of Hegel's concepts of spirit and absolute spirit, and consequently to fundamental distortions of his theory and practice of philosophy itself. For the various modes of the dialectical progression, see *Düsing, Subjektivität*, pp. 327-335. See also the careful explanation in Michael Forster's "Hegel's Dialectical Method," in *Companion*, pp. 130-170 (though I do not quite agree with the author's interpretation of Hegel's view on the unity of thought and its object at p. 144).

⁷ For Hegel's (meta)logical understanding of the analytic and synthetic aspects of knowledge as his contemporaries understood them, see GW 12, pp. 202-230, 242, 246, and Enc A 173-178, especially 177R. A clear explanation can be found in *Düsing, Subjektivität*, pp. 295-304. To know the truth, we must proceed from the concretely given to the abstractly universal and then back again. Analysis yields abstractions, while synthesis is needed for real definitions, divisions, and theorems. Truth or true knowledge is the identity for itself of the concrete content (the objective world or reality in itself) and the concept. The process that leads to truth is therefore the active identification of the (formal) concept with the real (content), and of the reality with the concept. In other words, the (true) concept is (identical with) the (true) reality and vice versa. "It is the concept which activates itself in the object, thus relating itself to itself, and — by giving reality to itself in the object — finds truth" (*Logic*, GW 11, p. 199). Cf. Enc A 183: "The absolute and all-encompassing truth is the idea that thinks itself," i.e., "the concept for which the concept as such is the object, or for which the object is the concept."

⁸ GW 11, pp. 7-8.

No merely analytic philosophy has the organ for understanding Hegel, not because he lacks analytic skills (his *Logic* is the greatest monument of analysis in modern history) but because his analysis is always accompanied by the synthetic thrust of reason (*Vernunft*). Some critics take Hegel's cooperation of intellect and reason to be a method of confusion; whether this reproach is their problem rather than Hegel's can only be determined by patiently unpacking the thousand and one distinctions Hegel has made concerning all the levels of the philosophical universe.

The supremacy of reason over intellect implies Hegel's famous statement that "the truth is" (or can be found only) "in the whole," or that "the truth is the whole."⁹ As soon as "the whole" or "the universe" or *to pan* or "all beings" have a thinkable meaning, the question is posed regarding how all particular "things" can and must compose *one* whole. And if thinking cannot stop at any duality or division because it always already transcends them by reaching toward their union, the final and encompassing thought, which then inevitably is also the "truest" thought, lies in the all-encompassing unity of distinct realities.¹⁰

With regard to the necessity that must be discovered through thought, the universality of true statements means that no truth can be isolated from the truth of the whole, which is a *constitutive* moment of all truths about particular issues. As "knowledge of necessity," philosophy is the comprehension of the universe,

⁹ Phän, GW 9, p. 19: "Das Wahre ist das Ganze." Cf. pp. 34-35, and *Logic*, GW 11, p. 19: The traditional logic of the intellect must be transformed by rigorously deducing the determinations of pure thought and showing that they form one totality. Reason itself is this totality and, as such, the content or substance of the logic. Cf. Leo Lugarini, "Die Bedeutung des Problems des Ganzen in der Hegelschen Logik," in Dieter Henrich (ed.), *Die Wissenschaft der Logik und die Logik der Reflexion* (Bonn: Bouvier, 1971), pp. 19-36, and Franco Chiereghin, "Hegels Konzeption der Wahrheit als Ganzes," in Dieter Henrich and Rolf-Peter Horstmann (eds.), *Hegels Logik der Philosophie: Religion und Philosophie in der Theorie des absoluten Geistes* (Stuttgart: Klett-Cotta, 1984), pp. 213-223. See also Chiereghin's "Il concetto di totalità sistematica in Kant e in Hegel," in *Metafisica e modernità* (Padova: Antenore, 1993), pp. 167-188.

¹⁰ This entails the systematic character of philosophy. See Enc A 7 & R: "A philosophy *without system* cannot be anything scientific [. . .]. The content can be justified only as a moment of the whole; outside of the whole, it is an unfounded assumption or a [merely] subjective certainty." Cf. Enc C 15, where the system of philosophy is presented as a "circle of circles, in which each [singular] circle is a necessary moment." The proof for this statement is given at the end of the logic: Enc A 190; BC 243.

including not only all beings and their being, but also all thinking, thought, and comprehension.

Aristotle on Thought

To understand Hegel's conception of truth — and therewith his "idealism" — we must understand that and how he furthers and radicalizes a long classical tradition that is neither realist nor idealist but more profound than what in our time are understood by those names. Hegel's courses on the history of philosophy testify to this tradition, especially his lectures on Aristotle and Neoplatonism.¹¹ In his explanations of Aristotle's *On the Soul*, Hegel praises the "great principle" of Aristotle's "essentially speculative" treatment of thinking.¹² Hegel's interpretation of Aristotle's

¹¹ For Hegel's interpretation of Aristotle, see Su 19, pp. 132-249 and Vorl 8, pp. 59-99. The study of the relationship between Hegel and Aristotle is only one part (pp. 285-302) of Dominique Janicaud's beautiful book on the role of Greece in Hegel's work, *Hegel et le destin de la Grèce* (Paris: Vrin, 1975). On Plato and Hegel, see pp. 267-284, and on Neoplatonism, pp. 309-312). For Hegel's interpretation of Aristotle, see Klaus Düsing, *die Geschichte*, pp. 79-132, "Ontologie bei Aristoteles und Hegel," in *Hegel-Studien* 32 (1997): 61-92, and "Lineamenti di ontologia e teologia in Aristotele e Hegel," in *Il Pensiero* 33 (1984): 5-32. Alfredo Ferrarin provides an excellent study in *Hegel Interprete di Aristotele* (Pisa: ETS, 1990). His appendix III, pp. 227-232, offers a succinct overview of the secondary literature on Hegel's interpretation and use of Aristotle. For an even more complete study, see Ferrarin's *Hegel and Aristotle* (forthcoming). See also Ferrarin's "La metafisica aristotelica e l'idea hegeliana della logica," in *Verifiche* 17 (1988): 107-154; G.R.G. Mure, *An Introduction to Hegel* (Oxford: Clarendon, 1940); Walter Kern, "Aristotle in Hegels Philosophiegeschichte: eine Antinomie," in *Scholastik* 32 (1957): 321-345; Karl-Heinz Ilting, "Hegels Auseinandersetzung mit der aristotelischen Politik," in *Philosophisches Jahrbuch* 71 (1963-64): 38-58; Franco Chiereghin, *Hegel e la metafisica classica* (Padova: Verifiche, 1966); Pierre Aubenque, "Hegel et Aristote," in Jacques D'Hondt (ed.), *Hegel et la pensée grecque* (Paris: Presses Universitaires de France, 1974), pp. 97-120; and Giancarlo Movia (ed.), *Hegel e Aristotele* (Cagliari: AV, 1997). For the relation between Hegel and Plato, see, among other valuable studies, M.B. Foster, *The Political Philosophies of Plato and Hegel* (Oxford: Clarendon, 1935); Düsing, *die Geschichte*, pp. 55-96; Werner Beierwaltes, "Distanz und Nähe der Geschichte: Hegel und Platon," in *Giornale di Metafisica* 17 (1995): 5-28, and *Platonismus und Idealismus* (Frankfurt am Main: Klostermann, 1972); and Adriaan T. Peperzak, *Platonic Transformations* (Lanham: Rowman & Littlefield, 1997), pp. 19-56. For Hegel's lectures on Neoplatonism, see Su 19, pp. 403-418 and 430-489; Vorl 8, pp. 159-168 and 174-191, and Düsing's *die Geschichte*, pp. 132-159.

¹² Su 19, pp. 212 and 214. Cf. Enc BC 378: "Aristotle's books *On the Soul* [. . .] are still the best or [rather] the only speculatively interesting work on this

difficult chapters on *nous* or spirit,¹³ stresses that "the soul" — as thinking, Hegel adds — "is somehow all things."¹⁴ This unlimited possibility of receiving the ideas (*eide*) of all things is *nous* in its passive or receptive capacity. As such, it receives the appearances of all things through sensation, perception, and representation (all of which are its own lower level realizations). However, *nous* is essentially active because it is universal (*panta*). Its receptivity is not a kind of dependence on other entities; as active *nous*, it *makes itself* receptive in order to think all objects in their truth, i.e., as concretely realized and individualized forms or ideas (*eide*). The idea of a thing is not an abstractly universal element, but rather the individual thing as it truly is, i.e., as correctly conceived or thought. Thinking produces the truth of all things by transforming their empirical appearances into their ideas, i.e., their concretely actualized concepts. The distinction between the passive and the active sides of *nous* is necessary for its freedom. Being all things *potentially* (*dunamei*) or as a possibility only, *nous* is nothing in particular; it is therefore independent and distinct (*chōriston*) from the concreteness of all individual and particular things and ideas. As active *nous*, however, it actively produces all forms, which must concretize themselves empirically to be really what they are.

The empiricist misunderstanding of Aristotle's analysis of reason — a misunderstanding widespread in Hegel's as well as in our time — takes Aristotle's metaphor of the passive *nous* as an indication of a *tabula rasa*. Instead of also emphasizing the spirit's all-encompassing activity, this reading attributes the impressing of the slate to the activity of external objects. "That, however, is the contrary of what Aristotle says." *Nous* "is not a thing; it does not

subject. The essential goal of a philosophy of spirit can be only to reintroduce the concept into the knowledge of the spirit, and therewith to rediscover the meaning of those Aristotelian books." Cf. Walter Kern's studies "Eine Übersetzung Hegels zu *De Anima* III, 4-5," in *Hegel-Studien* 1 (1961): 49-88, and "Die Aristotelesdeutung Hegels: Die Aufhebung des Aristotelischen 'Nous' in Hegels 'Geist,'" in *Philosophisches Jahrbuch* 78 (1971): 237-259. Horst Seidl criticizes Hegel's interpretation in "Bemerkungen zu G.W.F. Hegels Interpretation von Aristoteles' 'De Anima' III, 4-5 und 'Metaphysica' XII 7 u.9," in *Perspektiven der Philosophie* 12 (1986): 209-236.

¹³ Cf. *On the Soul* III, 4-8 (429a10-432a14) and Hegel's interpretation in Su 19, pp. 212-221. Hegel translates *nous* here as *Verstand*, but his own term "spirit" (which is the unity of *Vernunft* and *Verstand*) would be more appropriate.

¹⁴ *On the Soul* 431b21-22; "*hē psychē ta onta pōs esti panta*"; Su 19, p. 215.

have the passivity of a slate [. . .]. It is activity itself; this does not fall outside of it, as it does in the case of a slate."¹⁵

Only the actual activity is the true (*das Wahrhafte*), or "the *nous* itself is also thinkable (*noētos*), that which is thought. For, in that which is without matter ([i.e.] in the spirit)," "the thinking" (the subjective) "and that which is being thought" (the objective) "is the same. Theoretical science and that which is being known are the same."¹⁶

Hegel then concludes his interpretation by clarifying to what extent Aristotle had already reached the level of Hegel's own "speculative idealism" (which is neither speculative nor idealist in the twentieth-century sense of those words):

That which today we call the unity of the subjective and the objective is here expressed with the utmost precision. The *nous* is activity, thinking itself and that which is being thought; the former is the subjective [moment], the latter the objective [moment]. He correctly distinguishes both, but just as rigorously he also states the identity of both. In our terminology, the absolute and true is only that whose subjectivity and objectivity are one and the same, identical [. . .]. Absolute thinking (he also calls it the divine *nous*), the spirit in its absoluteness [. . .], is a thinking of that which is best, which is the end in and for itself. This is the *nous* that thinks itself.¹⁷

And

The *nous* is all things; in itself (*an sich*) it is the totality, the truth as such [. . .]; the thinking of thinking [. . .] which [. . .] constitutes the nature of the absolute spirit for itself.¹⁸

The Aristotelian and Neoplatonic tradition, which Hegel retrieves in these pages,¹⁹ continued until the triumph of nominalism. In

¹⁵ Su 19, pp. 214-215. Hegel refers here to Aristotle's comparison of the *nous* with a tablet or slate "on which nothing is actually written" (*On the Soul*, 430a1-2).

¹⁶ Su 19, p. 215. Hegel here quotes and interprets *On the Soul* 430a2-6.

¹⁷ Su 19, pp. 217-218.

¹⁸ Su 19, p. 219. Hegel here refers implicitly to Aristotle's *Metaphysics* XII, 7 (1072b18-27), which he quotes in Greek at the end of the second and third editions of the *Encyclopedia* as the summit and summary of his own philosophy of the spirit, which is identical with the universe. See below Chapter Three, pp. . .

¹⁹ More than Plotinus (Su 19, pp. 435-465), who lacks systematicity, Proclus (Su 19, pp. 466-486) is "the summit of the neoplatonic philosophy" (p. 486) and the summary of ancient philosophy in its entirety. "Proclus is [. . .] much more determinate and advanced than Plotinus [. . .]. In this respect he is the most excellent and developed among the Neoplatonists" (p. 474). Cp. Vorl 8, pp.

modern philosophy, Spinoza is closest to the classical tradition when he insists on the parallel between the *ordo rerum* and the *ordo idearum*, but Hegel criticizes this parallel as a half-truth and replaces it with the Aristotelian *identity* of thinking and thought.²⁰ The proof for his conception lies in the whole of his work, but a first, provisional understanding can be acquired through the study of his prefaces and the introduction to *The Science of Logic*.²¹

The Identity of Thought and Being

Philosophy is "the science of *reason* [. . .], insofar as reason becomes conscious of itself as [identical with] all being" (Enc A 5).

The preface to the first edition (1812) of Hegel's *Logic* begins with a diagnosis of the philosophical situation, with emphasis on metaphysics and logic.²² Kant and Fichte had achieved a revolution in philosophy, the consequences of which were both good and bad. Due to widespread misunderstanding, this revolution

176-191. See the important study of Werner Beierwaltes, "Hegel und Proklus" (in Rüdiger Bubner, et al. [eds.], *Hermeneutik und Dialektik* [Tübingen: Mohr, 1970], pp. 243- 272 for the significance of Proclus (p. 246, 248), the works Hegel read (p. 245), Proclus' influence on Hegel's interpretation of Aristotle (pp. 254-255), and the differences between Hegel and Proclus (pp. 258-268). See also Klaus Düsing, *die Geschichte*, pp. 132-159, and Jens Halfwassen, "Die Bedeutung des spätantiken Platonismus für Hegels Denkentwicklung in Frankfurt und Jena," in *Hegel-Studien* 33 (1998): 85-131.

²⁰ *Ethica* II, proposition 7 and Hegel's interpretation in Su 20, p. 176: "With regard to the relation between thought and being, he says: it is the same content, which, on the one hand, has the form of thought, and, on the other, the form of being. Each of them expresses the same essence [. . .]; the essence is God, both are the same totality." In Su 20, p. 166, Hegel writes: "The Spinozistic idea must be considered true, founded. The absolute substance is the truth, but it is not yet the entire truth; it must also be thought as active in itself, alive and thus as determining itself as spirit." GW 12, p. 15: "The only possible refutation of Spinozism is that its standpoint is first recognized as essential and necessary, and that, second, this standpoint is lifted out of itself up to the higher standpoint (of the identity of substance and subject)." On the profound importance of Spinoza's work for Hegel, see Franco Chiereghin, *L'influenza dello spinozismo nella formazione della filosofia hegeliana* (Padova: CEDAM, 1961); Klaus Düsing, *die Geschichte*, pp. 160-195, and "Von der Substanz zum Subjekt: Hegels spekulative Spinoza-Deutung," in Manfred Walther (ed.), *Spinoza und der deutsche Idealismus* (Würzburg: Konighausen & Neumann, 1992), pp. 163-177, followed by a judicious selection of the secondary literature on pp. 177-180.

²¹ GW 11, pp. 5-29 (edition of 1812) and Su 5, pp. 19-62 (preface and introduction to the second edition, 1831).

²² GW 11, pp. 5-8.

caused the disappearance of metaphysics from the scene, a phenomenon as alarming as that of a people estranged from its political constitution, its moral customs, and its virtues. A people without metaphysics is the theoretical counterpart to a people without an ethos — something strange and abnormal, because it shows a lack of concern for the spirit by which a people is led.

Hegel does not lament that pre-Kantian metaphysics has been ruined, but that philosophy has lost all interest in metaphysics as such. He enumerates three causes for this disaster: (1) the popular (mis)interpretation of Kant's work asserts that metaphysics has been shown to be a chimeric enterprise; (2) modern pedagogy has made people believe that education consists of practical exercises and the learning of skills instead of theoretical insight; and (3) theology has replaced metaphysics with appeals to feelings, concentration on practical questions, and historical erudition (pp. 5-6). Contemplation has been driven out by a superficial kind of empiricism and by an exclusive interest in praxis without theoretical support.

Despite this unfortunate situation, the new spirit revealed by Kant has established itself, though it is still seeking an adequate expression in all parts of the culture. Concentrating on the logic, Hegel then explains how this discipline can be transformed into an up-to-date science. A radical transformation of the traditional logic is necessary²³: A scientific²⁴ philosophy can be justified only through a new, more profound and rigorous logic. Hegel equates the (science of) logic with "metaphysics proper" (*die eigentliche Metaphysik*) and "pure speculative philosophy" as such (p. 7). However, the use of the adjectives "*eigentlich*" and "pure" (*rein*) in this statement warns the reader that the logic does not contain a complete philosophy or metaphysics; it is rather that part which the pre-Kantian handbooks distinguished, as *ontologia* or *metaphysica*

²³ GW 11, pp. 16, 22-23.

²⁴ Hegel's characterization of true philosophy as *Wissenschaft* (science) and *wissenschaftlich* (scientific) retrieves the meaning of Aristotle's *epistēmē* and the scholastic *scientia*. Hegel did not yet need to recover the word "science" from the positivists and naturalists who would monopolize it for their own endeavors. Assuming that science is not only exact, but also thorough and relevant, Hegel maintains that no other science can be as rigorous as philosophy and that a discipline loses its scientific character as soon as it loses contact with "speculative" thought.

generalis, from *metaphysica specialis*, in which God, the soul, and the world were treated, respectively, in the philosophical (or “natural”) theology, psychology, and cosmology.²⁵

The main obstacle that bars the entrance to philosophy and the main reason it is in such disrepair lies in a persistent prejudice regarding the relation between thought and the objects of thought, or, in other words, between the form of thinking and its matter or content. This prejudice dominates common sense, but “philosophy is the ongoing refutation of this error throughout all the parts of the natural and spiritual universe.”²⁶ Most people believe that thinking (the form of thought) and its content are separated by a gap that forbids their coincidence. Though they talk about correspondence between the two, they maintain that subject and object remain opposed to one another.

While there is a level on which this opposition is obvious, namely, that of naive consciousness, this level is only the phenomenal expression or appearance (*Erscheinung*) of a deeper, essential and true level: When consciousness becomes conscious of itself and all the contradictions that necessarily emerge within it, it can discover that the initial opposition is only the appearance of a fundamental identity. Pre-Kantian metaphysicians had a better conception of this than the various brands of post-Kantian subjectivism: they still understood that the truth of things is nothing else than that which correct thinking knows of them.²⁷

The worst form of this prejudice — and a true suicide of reason — is the widespread opinion that the only guarantee of truth lies in the sensible reality, whereas thinking produces only dreams. But

²⁵ See the excellent overview by T. Borsche s.v. *Metaphysik* in *Hist. Wörterbuch*, vol. 5, col. 1238-1260, and especially col. 1256-1257 for Hegel’s retrieval of the Wolffian metaphysics. Cf. also Hans Friedrich Fulda, “Spekulative Logik als ‘die eigentliche Metaphysik,’” in Detlev Pätzold and Arjo Vanderjagt (eds.), *Hegels Transformation der Metaphysik* (Köln: Dinter, 1991), pp. 9-28.

²⁶ GW 11, p. 17.

²⁷ GW 11, p. 17. *Die ältere Metaphysik*, which Hegel mentions here, refers to early modern philosophy (Descartes, Spinoza, Leibniz, etc.), though his statement *a fortiori* is true of the ancients. Cf. Enc A 139R: “The identity of the concept and the objectivity” as “their *absolute identity*” “has been the foundation of each and all philosophy — either as implicit, *unexpressed* thought (in Plato and Aristotle, all their predecessors, and ancient philosophy in general), or as *presupposed definition* [or] axiom (e.g., in Descartes, Spinoza), as immediate certainty, belief, intellectual intuition.”

even Kant and Fichte advocate the separation of true knowledge of the phenomena from the unknown nature of things as they are "in themselves." The overcoming of this prejudice is *an absolute condition for the practice of philosophy*. It was the purpose of Hegel's *Phenomenology of the Spirit* (1807) to guide the naive, empiricist, and dualist consciousness toward the true dimension of truth. In focusing on consciousness as it initially appears ("the appearing consciousness"), that work showed how such consciousness frees itself from its illusions about its relations to the universe and itself in order to become aware of its fundamental identity with all being.²⁸ The *Phenomenology of the Spirit* thus offered a deduction of the identity of thinking and being, which is the first principle of the logic and of philosophy in general. The deduction itself was rigorous and methodical; it was ruled by the true logic, but this was not necessarily clear to the consciousness involved in the progressive discovery.²⁹ The *Logic* makes the guiding logic explicit, however, thus explaining how and why it could offer such guidance toward the principle of all truth.

The Introduction to Hegel's *Logic* formulates this principle in various ways. The following is an example:

In this respect, the former metaphysics had a higher concept of thought than that which has become current more recently. It was based, namely, on the principle that only that is the very truth of things which is known of and in them by thought, i.e., not things in their immediacy, but only things as raised to the level of thinking, as thought [things]. That metaphysics assumed therefore that thought and the determinations of thought are not alien to the objects, but, on the contrary, are their essence, or that the things and the thoughts of them [...] in and for themselves correspond [to one another], that thought, in its immanent determinations, and the true nature of things is one and the same content.³⁰

... it is only in absolute knowing that the separation between [the] object and [the] self-certainty [of consciousness] is completely abolished, while the truth has become equal to this certainty, just as this certainty has become equal to the truth.

Pure science presupposes therefore the liberation from the opposition of consciousness [to its objects]. It contains *the thought*

²⁸ GW 11, p. 8.

²⁹ GW 11, pp. 17-18 and 20.

³⁰ GW 11, p. 17. The grammatically incorrect "is" in the last phrase stresses the identity of form (thinking) and content (things).

*insofar as thought is just as much the thing (Sache) in itself, or the thing in itself insofar as it is just as much pure thought. Or: the concept of science is that the truth is pure self-consciousness and has the shape of the self, [or] that that which is in itself (an sich) is the concept, while the concept is that which is in itself.*³¹

The logic of the *Encyclopedia* expresses the same principle in the following passages:

According to these determinations [of thinking and logic as such], thoughts (*Gedanken*) can be called *objective* thoughts. These also encompass the forms that are initially considered in the ordinary logic and are usually taken exclusively to be forms of *conscious* thinking. Therefore, the *logic* coincides with the *metaphysics*, [i.e.,] the science of *things* [as] caught in *thoughts*, which were understood as expressing the *essences* of *things*.

[. . .] When thought tries to produce a *concept* of certain things, this concept, and therewith also its most immediate forms, judgment (*Urteil*) and conclusion (*Schluss*), cannot consist in determinations and relations that are alien and external to those things. Reflection (*Nachdenken*) [. . .] leads to the *universal* of things; this is itself one of the moments of the concept, however. That intellect and reason are in the world, means the same as the expression "objective thought." However, this expression is awkward, because "*thought*" ordinarily is used only as something that belongs to spirit [and] consciousness, while "objectivity" equally is said in the first place about non-spiritual realities.³²

To show that these statements are in line with the sources of Western philosophy, Hegel refers to Anaxagoras, who was the first to state that "the *Nous*, i.e., *Thought*, is the principle of the world and that the essence of the world must be determined as thought," and to Plato, whose ideas must not be misunderstood in some empiricist or nominalist way as entities existing outside or above this world, but, on the contrary, as the true concepts of real things in the only world that is actual.³³

³¹ GW 11, p. 21.

³² Enc C 24 & R. Cf. Enc C 465: The intelligence "knows that what is *thought*, is, and that what is, is only insofar it is thought (cf. §§ 5, 21)."

³³ GW 11, pp. 21-22. The quotations given here can easily be bolstered by many others. I would not insist on this point, if the secondary literature did not show frequent neglect or denial. Once Hegel's conception of truth is accepted, many frequently debated issues become easily understandable; for example, the rationality of the actual and the actuality of the rational, as stated in the Preface to the *Grundlinien*, or such expressions as "the reason (or rationality) of the issue" (*die Vernunft der Sache*) and "the object is rational for itself" (GrI 31R). For

By way of conclusion, we can state that the content (or matter or object) of philosophy, as the identity of thinking and things, is

the correct understanding of Hegel's logic as metaphysics and ontology, see Klaus Düsing's *Subjektivität*, especially pp. 198-208 and 289-346, and "Hegels Begriff der Subjektivität in der Logik und in der Philosophie des subjektiven Geistes," in Dieter Henrich (ed.), *Hegels philosophische Psychologie* (Bonn: Bouvier, 1973), pp. 201-214. An accurate explanation of the relation between thought and its object can also be found in Walter Jaeschke, "Objektives Denken: Philosophiehistorische Erwägungen zur Konzeption und zur Aktualität der spekulativen Logik" in *The Independent Journal of Philosophy* 3 (1979): 23-36. See especially p. 31: "The concept, elsewhere determined as merely a product of the pure subject, and true being in the ontological sense must be known as *originally* identical. The *Science of Logic* in its entirety is therefore nothing other than the systematic explication of this original identity: 'that being is the pure concept in itself, and only the pure concept is the true being'" (GW 11, p. 30). Nobody is, of course, obliged to agree with Hegel (or, for that matter, with Aristotle), but Jaeschke rightly warns against a widespread tendency to present as Hegelian a theory that rejects his fundamental insights or assumptions: "The greatest danger for Hegel's actuality lies [. . .] in short-breathed attempts to force the speculative *logic* into the Procrustean bed of standards accepted in contemporary philosophy and to kindly ignore its metaphysical character as obsolete, while instead finding in it, at least in an embryonic form, this or that insight that belongs to a later philosophy" (p. 36). See also Ludwig Siep, "Hegel's Idea of a Conceptual Scheme," in *Inquiry* 34 (1991): 63-76. When the identity of being and thought is considered to be "objectionable" and/or "not central" to Hegel's work or seen as pertaining "to a very obscure metaphysics" that should be expunged, as Terry Pinkard suggests in his very interesting but debatable article "The Logic of Hegel's Logic," *Journal of the History of Philosophy* 17 (1979): 417-435, Hegel's *logic* is reduced to a merely *formal* (non-ontological) logic which might be "not far from contemporary concerns," but certainly does *not* render "the central argumentative core of Hegel's *Science of Logic*" (p. 417). Another accurate interpretation of Hegel's conception of logic and methodology, though in a different spirit, is presented in David Kolb's "The Final Name of God," in Michael Baur and John Russo (eds.), *Hegel and the Tradition: Essays in Honour of H.S. Harris* (Toronto: Toronto University Press, 1997), pp. 162-175. An extremely thorough treatment of the meaning and the mutual relations of truth and thought according to Hegel, in discussion with the great classics of ancient and modern philosophy and the standard analytic philosophy of the twentieth century, is offered by John McCumber in *The Companion of Words: Hegel, Language, and Systematical Philosophy* (Evanston: Northwestern University Press, 1993). Richard Dien Winfield offers a clear and thorough explanation of the immanent development of Hegel's logic and its transition to *Realphilosophie* in "Concerning Reality Without Foundations: Hegel's Neglected Strategy for *Realphilosophie*," in *Assessments* III, pp. 292-310. He calls this development through self-determination "non-metaphysical" and "non-foundationalist." Frank B. Farrell, in *Subjectivity, Realism, and Postmodernism: The Recovery of the World* (Cambridge: Cambridge University Press, 1994), pp. 20-26, rightly insists on the Aristotelian character of Hegel's conception of truth as identity of thought and being against Robert Pippin's insistence that Hegel continues Kant's program of transcendental investigation in *Hegel's Idealism* (Cambridge: Cambridge University Press, 1989), pp. 16-41 and 175-188.

"objective thought," i.e., the identity of matter and form. Instead of being a purely formal discipline, the logic is therefore the most fundamental moment of the overall identity of form and content (i.e., the moment of the truth of the universe).

The logic must therefore be understood as the system of pure reason, as the realm of pure thought. This realm is the truth itself, insofar as it is without veil in [and] for itself. One can therefore say that this content is the presentation (*Darstellung*) of God as being in his eternal essence before the creation of nature and a finite spirit.³⁴

Onto-theo-logy

The distinction between the logic and the other parts of philosophy is indicated in the last quote by an appeal to the religious image of a time before and a time after the emergence of the finite universe. "God" here represents the Neoplatonic Spirit in which the entire universe is present in the mode of pure conceptuality. "Creation" indicates the transition from conceptuality to the empirical reality of all natural and spiritual entities. However, this transition must not be misunderstood as a distinction between two worlds or realms: Thought (*Nous*) or "God" is immanent in and constitutive of the empirical universe.

As the universal or total form of all forms, "God" "in-forms" all particular determinations or contents. God thus coincides with the totality of all things; theology coincides with ontology, and, since the logic is fundamental for and coextensive with ontology, *logic*, *ontology*, and *theology* are three names for the same all-encompassing or universal thought, seen from three different perspectives.

"God" is the One who *is* all things, and the universe, thought profoundly, *is* God. *To Hen kai Pan* remains key. Hegel's metaphysics is a clear example of onto-theo-logy, but its specificity creates a profound ambiguity due to the identification of the originary and creative One with the totality of all things. Because God, in Hegel's philosophy, coincides with the universe, both left and right wing Hegelians have a point. Hegel's thought has a Janus face: by radically conceptualizing the theological tradition of

³⁴ GW 11, p. 21. Cf. Enc C 85: "... all logical determinations can be seen as the definitions of the Absolute, as the *metaphysical definitions of God*."

the West, his gnostic retrieval of Neoplatonism and Christianity inaugurated the atheistic tradition of Feuerbach, Marx, Nietzsche, and the twentieth century.³⁵

To remind the reader of the ontological character of Hegel's logic, I will often replace the words "logic" and "logical" with "(onto)logic" and "(onto)logical" with or without parentheses according to the needs of the context. Hegel himself, however, distinguished between the logical and the ontological parts of his *Logic*. For a correct understanding of "ontology" in Hegel's sense, we must remember the eighteenth-century standard division of philosophy, as exemplified in Christian Wolff's *Metaphysica*, for example. Following the *logica*, which is defined as a formal discipline that also encompasses epistemology and methodology, the *ontologia* is the discipline concerned with the existing reality. Its first part, *ontologia generalis*, focuses on the being of all beings as such, while its second part, *ontologia specialis*, studies the existing universe according to a division in three parts: *theologia*, the study of God, *cosmologia*, the study of the world, and *psychologia*, the study of the soul. In addition to the logic and the ontology, which constitute its theoretical part, philosophy also encompasses a practical part, containing *ethica* and natural law theory.³⁶ Hegel's encyclopedic philosophy modifies this schema by transforming the general ontology together with the traditional logic into parts of his logic, while retrieving the traditional cosmology in his philosophy of nature and the philosophical psychology in his philosophy of spirit, which also retrieves the entire tradition of practical philosophy. Since God, as simultaneously universal cause and totality, has become identical with the universe, all parts of

³⁵ "Εν και παν" (without accents) was inscribed, possibly by Hölderlin, into Hegel's album on February 12, 1791; cf. *Briefe* IV/1, p. 36. The phrase is found in Jacobi's *Letters on Spinoza*. See Friedrich Heinrich Jacobi, *Schriften zum Spinozastreit*, edited by Klaus Hammacher and Irmgard-Maria Piske (vol. 1, 1 of *Werke, Gesamtausgabe*, edited by Klaus Hammacher and Walter Jaeschke [Hamburg: Meiner, and Stuttgart: Frommann-Holzboog, 1998]), p. 16, and vol. 1, 2 (Anhang), pp. 392-393. It can be read as a summary of Hegel's system. Several authors have characterized Hegel's philosophy as a gnosticism. Cf., for example, Jeff Mitscherling, "The Identity of the Human and the Divine in the Logic of Speculative Philosophy," in *Hegel and the Tradition* (see note 33), pp. 143-161.

³⁶ Christian Wolff, *Philosophia rationalis sive logica, Pars I*, edited by Jean École in Wolff's *Gesammelte Werke* (Hildesheim: Olms, 1983), pp. 28-52 (caput III: De partibus philosophiae) and the tables on pp. xxx and L of École's Introduction.

philosophy are theological — in a modern way Hegel here returns to the medieval tradition of the alliance between philosophy and theology. Hegel's system, therefore, does not contain a separate theology, but the beginning, the middle, and the end of his system are particularly important for understanding what God has become within this system. The logic (which is the beginning of the entire system) analyzes, as we have seen, the thought of God as the origin, essence, and idea of the universe;³⁷ the beginning of his philosophy of spirit (which is the midpoint of the system) defines God as the idea that realizes itself in nature and human culture;³⁸ and, finally, the end of the *Encyclopedia* shows how God knows himself as the universe that possesses and enjoys itself in the transparent self-comprehension of the actualized idea.³⁹

The "idea," as the summary of the logical universe, is God "before the creation," in which he externalizes himself; the "spirit" is God as returning to himself through nature; the final gnosis (*das absolute Wissen*) is the idea that comprehends its own ideality as actualizing itself in and as the universe.⁴⁰

At the end of his section "on the general division" of the *Logic*, Hegel himself indicates to what extent and in which sense the traditional metaphysics is integrated into his logic.⁴¹ The "objective logic" (i.e., the first two parts of his logic: the logic of being and the logic of essence) replaces the old ontology, which includes not only the general ontology or doctrine of being and essence as

³⁷ Enc A 12-191; BC 19-244.

³⁸ Enc A 299-305; BC 377-386.

³⁹ Enc A 474-477; BC 574-577. GW 11, p. 21: "... this content [of pure science] is the *Darstellung* of God, as he is in his own eternal essence, before the creation of nature and a finite spirit."

⁴⁰ Acquaintance with the theological tradition that Hegel appropriated in the Tübingen *Stift* is helpful for avoiding the mistake of equating Hegel's *Geist* with a "mentality." When Robert B. Pippin, in *Sieph, Grundl*, p. 45-46, suggests that Hegel "does not treat *Geist* as a thing at all, either material or immaterial, but as a category required within any full account of the mind's capacity to give accounts at all," he seems to divide the universe into things, minds, and categories. But where in all of these is the spirit, which, according to Hegel's constant affirmation, is the originating unity of the universe (including subjects, cultures, nature, things, minds, categories, mentalities, world visions, and sciences)? A nominalist conception of being cannot conceive of a spirit that at the same time is distinct from and one with the universe of beings, which is exactly the secret of Hegel, even if it is an ill-conceived one.

⁴¹ GW 11, p. 32.

such, but also the specific ontology or metaphysics insofar as this concerns only the purely formal aspects of God, the world, and the soul, which will be studied in the philosophy of nature and spirit. As objective, this part of the logic is concerned with the determinations of thought that reveal the being, the essence, and the abstract ideality of all realities. Hegel here makes a difficult distinction between the logical (or formal) components of the universe and the reality that they have for our *representation* and concrete comprehension, or, as commentators often formulate it: between *Logik* and *Realphilosophie*.⁴²

The third part of Hegel's logic, the "subjective logic" or logic of the concept, transforms the traditional logic. However, since thought and being are identical, the subject that is revealed in the "subjective" logic is not confined to any human or nonhuman subject; it is as real and objective and ontological in a non-traditional, Hegelian sense as the topics of the objective logic. In this Hegelian sense, I will use the expression "(onto)logical" or "ontological" to indicate the realistic character of Hegel's idealism.⁴³

Hegel's Logic and Its Role in His Philosophy of Right

No other classic of philosophy has retrieved so many categories, distinctions, theses, and modes of argumentation from the logic and metaphysics of the Western tradition. But far from being merely a compiler, Hegel has thought through the connections that tie them together as elements of one totality. The degrees of

⁴² See also GW 11, pp. 28-29 and, for Hegel's retrieval of the Wolffian division of metaphysics, his letters to Friedrich Immanuel Niethammer of February 5, 1812 ("the first part [of my logic] does not yet contain anything of the habitual so-called metaphysical or ontological logic: first book on being, second on essence. . .") and March 24, 1812 ("A first part of my *Logic* [. . .] contains the first book, *being*, a part of ontology; the second book [contains] the doctrine of *essence*, the third [contains] the doctrine of the *concept*") (*Briefe* I, pp. 393 and 397).

⁴³ Cf. Enc C 24: "According to these determinations [indicated in §§ 20-23], thoughts can [. . .] be called *objective* thoughts. These also comprise the forms that first of all are considered in the ordinary logic and are seen as forms of *conscious* thinking. The *logic* coincides therefore with *metaphysics*, the science of *things*, grasped (*gefaßt*) in *thoughts* that were seen as expressions of the *essences* of *things*." See also the letters quoted in the preceding note: "the metaphysical or ontological logic" and "the doctrine of being, a part of ontology" (pp. 393 and 397).

abstraction and synthesis achieved in Hegel's *Logic* are such that only the highest concentration and acquaintance with many pre-Hegelian classics enable a reader to follow Hegel's argument.

In letters from 1807, 1808, and 1812 to his friend Friedrich Immanuel Niethammer, Hegel himself expresses the difficulties encountered in writing his *Logic*.⁴⁴ From 1807 (shortly after finishing the *Phenomenology of Spirit*) to 1816 he labored on the *Logic* during the free time that his jobs — first that of publishing a newspaper, later that of directing a high school — allowed him. He specifically mentions his struggle for clarity:

I work, as much as possible, on my general logic and I will not clear this job very soon. I feel that it will cost me a still greater effort to master the material so much that it becomes elementary. For you know that it is easier to be incomprehensible in a sublime way than to be comprehensible in a simple way, and teaching the youth, including the preparation of the material for such teaching, is the best touchstone of clarity.⁴⁵

In 1812 and 1813, the two volumes of the objective logic were published, followed by the subjective logic in 1816. In 1817 Hegel published the first version of his *Encyclopedia*, a manual in which he summarizes not only his logic, but the entire system of his philosophy. However, this compendium is one of his densest and most abstruse texts; it will therefore not be easy to gain an understanding of the philosophy of right by reading this version of the *Encyclopedia*.

Herein lies the difficulty that must be overcome in order to write a commentary on the *Grundlinien*: Can the commentator presuppose that the reader is already acquainted with Hegel's logic or must he preface his commentary with a crash course on it? Obviously, a short digest of the latter is either impossible or incomprehensible, and yet acquaintance with it is necessary for a philosophical understanding of Hegel's "*Realphilosophie*."⁴⁶ The situation is somewhat analogous to that of someone who is trying to learn a foreign language. One can learn the grammatical and semantic

⁴⁴ *Briefe* I, 176, 228-230, and 397-398.

⁴⁵ Letter of July 8, 1807, *Briefe* I, 176.

⁴⁶ As a real *tour de force*, Angelica Nuzzo did write an admirable summary of the main lines in her contribution "La logica" (pp. 39-82) in the *Guida a Hegel*, edited by Claudio Cesa (Bari: Laterza, 1997).

elements before reading any elaborate text; but one can also plunge into oral or written discourses and, on the brink of drowning in them, seek help by asking for explanations of the syntactic and semantic patterns that are practiced in those discourses. My commentary will combine these two approaches with regard to the relations between the logic and the philosophy of right. In this chapter, I will focus on some logical presuppositions, while reserving other questions of logic for the explanation of some difficult passages of the *Grundlinien*. But first we must ask what Hegel himself has to say about the relations between the logic and the philosophy of right.

The relations between Hegel's logic and his *Realphilosophie*, including the philosophy of right, have been studied and debated for several decades, but a clear and widely accepted solution has yet to emerge.⁴⁷ If Hegel's conception of his general (onto)logic is

⁴⁷ See pp. 40-51 of Jean-Louis Vieillard-Baron's splendid Introduction to his translation of the *Grundlinien*, *Principes de la philosophie du droit* (Paris: Flammarion, 1999), for a fair conclusion. A most complete study of this question is the monograph by Angelica Nuzzo, *Logica e Sistema: Sull' Idea Hegeliana di Filosofia* (Genova: Pantograf, 1992), 564 pp. Regarding the *Rechtsphilosophie* specifically, see her *Rappresentazione e concetto nella "logica" della filosofia del diritto di Hegel* (Napoli: Guida, 1990). Both books provide an extensive bibliography of the secondary literature. See also her "'Begriff' und 'Vorstellung' zwischen Logik und Realphilosophie bei Hegel," in *Hegel-Studien* 25 (1990): 41-63. Nuzzo, in agreement with Hans Friedrich Fulda ("Zum Theorietypus der Hegelschen Rechtsphilosophie," in *Theorie*, pp. 393-427, and "Die Entwicklung des Begriffs in Hegels Rechtsphilosophie," in Emil Angehrn [ed.], *Dialektischer Negativismus* [Frankfurt/Main: Suhrkamp, 1992], pp. 304-322), contrasts two logics: a logic of the *Begriff* and a logic of the *Vorstellung*, which are or should be combined in a "combinatory" logic. Though she points out real difficulties in Hegel's explicit logic, it seems to me that she tries to go beyond Hegel rather than giving an account of how the historical Hegel would have responded to her questions. Perhaps Hegel was not able to achieve his project, which was to comprehend (*begreifen*, i.e., to encompass conceptually) the full truth of the existing phenomena; it is not clear where exactly the line must be drawn between the possibility of conceptual insight into the necessary core of the phenomena and the opacity of their empirical variations, but Hegel's explicit logic of the *idea* (not of the mere concept) is *meant* to show that the empirical occurrence of the phenomenal universe (and its presence in our representations) is an integral moment of the absolute idea. See Valerio Verra, "Idea," in M. Fattore and M.L. Bianchi (eds.), *Atti del VI Colloquio Internazionale del Lessico Intellettuale Europeo*, Roma, 5-7 January 1989 (Roma: Edizioni dell' Ateneo, 1990), pp. 393-410. See also Christian Topp, *Philosophie als Wissenschaft: Status und Makrologik wissenschaftlichen Philosophierens bei Hegel* (Berlin: De Gruyter, 1982), pp. 278-294; Henning Ottmann, "Hegelsche Logik und Rechtsphilosophie: Unzulängliche Bemerkungen zu einem ungelösten Problem," in *Theorie*, pp. 382-392; Dieter

correct, his more specific metaphysics must manifest the abstract structures that are treated in the logic. But how exactly does (e.g.) the philosophy of right concretize those abstract, categorical structures? Does it apply the categories of the logic to extralogical material? Does his *metaphysica specialis* parallel the three parts and their divisions of the *Logic*? Are certain parts of the logic more apt than others for explaining the constitution of (e.g.) "right"?

Before taking a position in this debate, one must carefully study the passages of the *Grundlinien* in which Hegel explicitly refers to some part of his logic.⁴⁸ Would not the author himself be both able and inclined to answer the question of how the fundamental, abstractly-universal, and methodological part of his philosophy affects the other parts?

At least one thing is clearly stated and often repeated in Hegel's text: as part of philosophy, the philosophy of right is scientific, logical, methodical, demonstrative, and speculative.⁴⁹ It is equally

Henrich, "Logische Form und reale Totalität: Über die Begriffsform von Hegels eigentlichem Staatsbegriff," *ibidem*, pp. 428-450; Klaus Roth, "Zur Logik der Hegelschen Rechtsphilosophie," in *Hegel-Studien* 19 (1984): 330-343; Vittorio Hösle, *Hegels System: Der Idealismus der Subjektivität und das Problem der Intersubjektivität* (Hamburg: Meiner, 1988), vol. 1, pp. 60-127; Giuliano Marini, "La 'Filosofia del diritto' come sistema dello spirito oggettivo," in Pietro Rossi (ed.), *Hegel Guida storica e critica* (Bari: Laterza, 1992), pp. 87-119 (especially pp. 92-97), and "La società civile tra apparenza e parvenza: su alcuni aspetti sistematici della 'Filosofia del diritto' hegeliana," in Marini's *Libertà soggettiva e libertà oggettiva* (Napoli: Morano, second edition 1990), pp. 229-252.

⁴⁸ These passages are few. See below.

⁴⁹ Preface to the *Grundlinien*, pp. 4-5, 16-17 (see *Philosophy and Politics*, pp. 20-21); §§ 2R, 3R, 4R, 141R (end), 227R, 255R (*Deduktion, Beweisen*), 246R, 249 & R, 250 & R, 276R, and 279R. In *Ethical Thought*, pp. 5-6, Allen W. Wood contends that Hegel's work offers an interesting ethical theory, although the speculative logic and metaphysics, which he himself saw as the core and foundation, is completely dead. He agrees with Michael Rosen's verdict (in *Hegel's Dialectic and Its Criticism* [Cambridge: Cambridge University Press, 1982], p. 179) that nothing is living in the logic of Hegel (p. 5), but maintains that "Hegel's thought" is not dead (p. 4). It is unclear to me what, according to Wood's interpretation, the logical, epistemological, ontological, and methodological assumptions and devices of "Hegel's thought" are, and I doubt that a philosopher's thought can be separated from his or her explicit theory of logic and methodology, though I accept a possible difference between the author's explicit logic and the implicitly guiding logic of his oeuvre. "If Hegel understood his philosophy as the activity of pure thought-thinking itself, its legacy has rather been that of enabling us to understand how all human thought expresses its concrete social and cultural context" (p. 6). Cf. also p. 7: Hegel's self-understanding contains a good deal of truth; "Hegel's achievement lies in his sensitivity to the diverse aspirations of modern humanity." If Hegel's logic is

clear and certain that all the predicates used in the previous sentence have received a new meaning through Hegel's transformation of the pre-Kantian and Kantian epistemology. At the very beginning of the Preface (p. 4), Hegel warns the reader that philosophy can be saved only if its professionals not only reject the prevailing mixture of arbitrary opinions and outdated reasoning, but also understand and practice Hegel's logic. His *Rechtsphilosophie* presupposes that the reader has understood the new, speculative, and only true method, including the nature of scientific demonstrations, which has been justified in the *Logic* of 1812-1816.

Hegel strongly suggests that the understanding of his logic is sufficient for a correct understanding of the *Grundlinien*: "How scientific philosophy operates must here be presupposed as explained in the philosophical logic."⁵⁰ And he refers to the three volumes of his *Logic* to compensate for the scarcity of explicitly (onto)logical explanations found in the *Grundlinien*:

Since I have extensively unfolded the nature of speculative knowledge in my *Science of Logic*, in this compendium I have only added here and there an elucidation of procedure and method. In dealing with the concrete and multifaceted character of the issue, I have chosen not to indicate and emphasize each and every detail of the logical sequence; because acquaintance with the scientific method is presupposed, this not only can be considered superfluous, but it also will be obvious that the whole, like the development

dead and he has not yet discovered the truth of twentieth-century logic, how can he then "think," "understand," have a "theory," and offer a "rational" conception of ethics? At the very least, one must conclude that he has not proved his interpretation of human life in the modern society, and at best he then offers only reasonable reflections or a kind of hermeneutics from which we still can learn something, insofar as we, too, are modern. It seems to me that if Wood is right, Hegel's work offers only reasoned beliefs or opinions, but no rigorous thought. This is indeed the assumption that characterizes much of the secondary literature on Hegel. It implies that Hegel's project failed, but such a failure, if it is a fact, must be demonstrated. A careful reconstruction of Hegel's argumentation should therefore precede such a claim but this cannot be done if the reader replaces Hegel's own declarations with the postulate that Hegel's work is not metaphysical, speculative, theological, idealist, etc. By way of anticipation, I would here like to state my opinion that Hegel's work is a historical monument that is neither completely dead, nor completely alive, but rather, like all classics, a masterful example from which one can learn a great deal, provided one transforms it radically into a thought of one's own.

⁵⁰ Gr1 2R (end). See also the passages, quoted below, in which Hegel explicitly refers to his logic.

of its parts, rests on the logical spirit (*auf dem logischen Geist beruht*) (Grl, p. 4).

Without, however, clarifying here what "the logical spirit" means, Hegel insists on the scientific aspect of his book when he adds:

It is mainly from this side that I would like this treatise to be understood and judged. For, what is at stake in it is *science*, and in science the content is essentially bound up with the *form* (pp. 4-5).

What does it mean that someone who knows the (speculative) logic, does not need further help to understand Hegel's text? Is the relation between the two simply a question of application? As we will see, there are good reasons for denying this. The expressions "the logical spirit" and "bound up with [or tied to] the [logical] form" are not quite precise and leave open the possibility of different interpretations.⁵¹

Several sections of the *Grundlinien* explicitly refer to Hegel's logic, as contained in either the *Logic* or the *Encyclopedia* of 1817. In most of these passages, he suggests that certain developments of the philosophy of right presuppose the knowledge of (parts of) his logic, which then functions as a necessary and sufficient condition for the understanding of his "realphilosophical" argument. These passages can be found in the Preface (pp. 4-6) and in §§ 2R (end), 7, 24R, 31 & R, 33, 88, 95, 141R (end), 272R, 280R, and 302R. However, Hegel's indications remain embryonic. Most often, the references regard the logic of the concept (i.e., Hegel's speculative transformation of the traditional logic). Many other sections appeal implicitly to Hegel's logic, such as §§ 53, 81, 85, 118, 141, 184, 269, 294, 302, and 304,⁵² and in light of Hegel's Preface and explicit appeals, we may presume that he does not see any reason why his logic should be fundamentally altered in order to "fit" the realities that are deduced in the philosophies of nature, spirit in

⁵¹ Enc A 474 (BC 574), where the relation between the logic and the accomplished *Realphilosophie* is indicated in the expression "*bewährt*": "the logical (*das Logische*) in the sense that it is the universality as *bewährt* (*proved true*) in the concrete content." In the *Logic* "the logical or the concept" (or the pure determinations of the logic) are called "the basis (*Grundlage*) and the inner simple framework (*Gerüste*) of the spirit's forms" (GW 12, p. 20) and "the inner moulder (*Bildner*)" and "modeler (*Vorbildner*)" (GW 12, p. 25).

⁵² One could add explicit and implicit references of the various courses and *Zusätze*, for example, Grl 2Z, 63Z, 82Z, and 86Z, and Ilt 2, pp. 58, 59, 73, and 74.

general, or right. But why then is it so difficult for Hegel scholars to reveal the logical structure of Hegel's philosophy of right and — for that matter — of nature and spirit in general? Would Hegel himself have been able to answer our question satisfactorily? If so, why then did he not offer a systematic treatment of it?

Some commentators have tried to interpret Hegel's philosophy of right as a concatenation of concrete phenomena that mirrors or parallels Hegel's logic.⁵³ Little acquaintance with Hegel's *Grundlinien* is necessary to notice some parallels with his logic. For example, the triad, (logic of) *being* — (logic of) *essence* — (logic of the) *concept* is retrieved in the main division of the *Grundlinien*: immediate (or abstract) right — morality (as reflexive disunity) — ethical totality. Within the latter, the family, the civil society, and the state are related again as immediacy (logic of being), mediation (logic of essence), and syllogistic union (logic of the concept). However, not only are such generalities insufficient for acquiring an insight into the details of Hegel's arguments, but a closer look at the global parallels often reveals that they are not quite rigorous, and certainly not simple "applications."

Other interpreters have remarked that the deduction of (onto)-logical categories as pure (and in Hegel's sense formal) determinations of thought ("before the creation of the *real* universe") *cannot* run parallel to or coincide with the unfolding of concrete determinations of the phenomena in which the (onto)logical determinations are actualized.⁵⁴ Since the actuality of the phenomenal configurations that compose the real world have another (metaphysical or ontological) status than the (onto)logical abstractions of the logic, the onto-logical determinations of the concrete phenomena must be different, richer, more complicated than the thoughts that compose the totality of thoughts of the not-yet-realized Spirit. If the (onto)logic unfolded in Hegel's *Logic* is only

⁵³ For example, Lu De Vos, "Die Logik der Hegelschen Rechtsphilosophie: eine Vermutung," in *Hegel-Studien* 16 (1981): 99-121, and Henry S. Richardson, "The Logical Structure of *Sittlichkeit*: A Reading of Hegel's *Philosophy of Right*," in *Idealistic Studies* 19 (1983): 62-76.

⁵⁴ For example, Angelica Nuzzo (see above, note 47); Pierre-Jean Labarrière and Gwendoline Jarczyk, *Le syllogisme du pouvoir* (Paris: Aubier, 1989), pp. 13-27 and *Hegeliana* (Paris: Presses Universitaires de France, 1986), pp. 205-215, 285-293; Denis Rosenfield, *Politique et liberté: Structure logique de la Philosophie du droit de Hegel* (Paris: Aubier, 1984), with a *Préface* by Pierre-Jean Labarrière, pp. 9-14.

one part of Hegel's universe, it can only be a moment, albeit the most fundamental moment, of the ontologic that is realized in the phenomenal universe. As a moment, it is then ruled by another, "higher" or meta-logical logic that governs the unity of that abstract or formal logic and the material "content" that permits its concrete realization. Though "God," as abstract, logical *Nous* and *kosmos noētos* "before creation," is immanent in the actual cosmos of nature and human culture, there is an (onto)logical difference between "God"'s thought as such and the enjoyment of its self-expression in the real universe.⁵⁵

The thematic insight on which this second line of interpretation rests is justified; but even if it follows from Hegel's own distinction between logic and *Realphilosophie* and his distinction between concept (*Begriff*) and representation (*Vorstellung*), it is very difficult to believe that Hegel himself saw the necessity of a higher logic or meta-logic as ruling the unfolding of nature and spirit. If the logic he had already written indeed encompassed all the "pure determinations of thought," how then could there be a space for yet another logic? The claim that Hegel's logic, as the unfolding of the absolute Idea itself, encompasses all reality is consistent with the thesis that the existing universe is nothing else than the self-externalization of "God's" interiority, an externalization that does not require any pre-given material or reality. This thesis seems inseparable from his idealism.

A third approach to the question of the relation between Hegel's explicit logic and the implicit logic of the *Realphilosophie* is to concentrate on the latter, while temporarily postponing a general solution to the methodological question. This approach is favored in the present book. An attempt will be made to clarify, at least to a certain extent, the logical structure of Hegel's argumentation, thus assembling the elements of the factually operating logic, which often remains implicit or hidden in Hegel's text. If this endeavor succeeds, a more precise and detailed comparison of

⁵⁵ Cf. the last sentence of Hegel's Berlin *Encyclopedia* prior to the quote from Aristotle: "... it is the nature of the thing itself (*die Sache*), [i.e.,] the concept, which moves itself forward and develops itself, and this movement is as much the activity of knowing; the eternal idea in and for itself eternally activates, generates, and enjoys itself as absolute Spirit." The allusions to Aristotle's *noēsis noēseōs* (see also Enc C 236Z) and the Christian theology of the Trinity are obvious. See my commentary in *Selbsterkenntnis*, pp. 146-157.

the two logics will become possible. Similar analyses are required for Hegel's treatment of right in the three versions of his *Encyclopedia*.⁵⁶ A comparison of all the treatments produced between 1817 and 1830 could then — besides revealing a genetic aspect — show to what extent Hegel's attempts at conceptualizing his material have an experimental character.

A complete overview of the explicit *and implicit* logic that rules Hegel's entire philosophy of nature and spirit would facilitate an answer to the question of whether the knowledge of his *Logic* indeed suffices to comprehend all the phenomena of Hegel's universe, or whether we still require a supplement. Complicating the matter, however, we must also ask which (meta-)logic in fact (implicitly) rules the production of the explicit logic unfolded in his *Logic*. Are the logic explained in his writings on logic and the logic that in fact generated and structured all his writing (including those on logic) identical? Or is there an unbridgeable gap between the method that ruled Hegel's thinking and the explicit thoughts (including his thoughts on method) that it yielded?

What I have called a third approach is not really a third method, but rather a necessary condition for any scholarly answer to the questions formulated above. Without a detailed analysis of the logical concatenations of the *Grundlinien*, no metatheory about Hegel's method can be tested or defended.



To reach a provisional conclusion about the still unresolved debate, we might prepare ourselves by meditating upon the last pages of Hegel's Introduction to his *Logic*.⁵⁷ There Hegel distinguishes two meanings of the logic depending on the way in which it is studied. If you begin your philosophical studies with the logic, it appears as a purely formal system of abstract determinations. Since it lacks all empirical content, its relevance is unclear and no knowledge of any content seems to result from it. However, once you have studied other sciences, even if you have only been led by

⁵⁶ A logical analysis and comparison of Enc A 388-452, B 469-552, and C 469-552 can be found in *Hegels prakt. Phil.*

⁵⁷ GW 11, pp. 27-29.

a kind of natural, spontaneous, inborn logic, the study of the logic has a different relevance and meaning: the logical determinations are now understood as the essence of the phenomenal content of the other disciplines. From the perspective of the empirical appearances, the logic, as "absolute science," reveals "the inner nature of the spirit and the world" (p. 28).

Hegel compares the difference between these two ways of understanding the logic with the study of a grammar before and after having become familiar with a certain language and also with the knowledge contained in a moral proverb as heard by a child or by a person with a rich experience of life. Acquaintance with concrete sciences might seem richer than mastery in (onto)logic because it yields a fuller representation (*Vorstellung*) of the world; but without logical knowledge, such representations remain superficial because they concentrate on appearances, without comprehending their essence. Exclusive concentration on the logic is also partial, because it reifies the fundamental determinations that make sense only as determinations (or determining "moments") of empirical phenomena. In its pursuit of the pure forms of things, the logic abstracts from all sensibility — i.e., from all sensations, perceptions, feelings, representations, and so forth — which leads to an abstractly universal pattern. As such, it is "the realm of shadows, the world of simple essentialities, freed from all sensible concreteness" (p. 29). Only in union with the empirical wealth studied in other philosophical or empirical disciplines, can the logic demonstrate its concrete relevance and meaning. Only the concretization of the logic in the study of particular phenomena can show what the universality of logical thought means. The logical doctrine of the concept must be "applied" to the logic itself: only as differentiated in empirical disciplines, is its universality concrete and fully true.

If the meaning of the logic differs according to the approach of individuals who study its forms, this difference cannot be confined to the subjectivity of the students. The logic *must* be understood as only an element or moment of the full, concrete truth. In isolation, it remains abstract and *an sich* only; though it is essential, it is unreal. To be actually, in and for itself, what it ("really") is, it must encompass (*übergreifen über*) and incorporate the entire *Realphilosophie*. How does the logic of such a concretely universal, all-

encompassing, particularized as well as singularized logic relate to the logic that precedes its concretization?

Comprehension

Hegel's insistence on the "scientific" (*wissenschaftlich*) character of philosophy does not mean that philosophy should compete with the positive sciences in the discovery of new truths. The most fundamental and supreme science excels in insight and comprehension, not in an accumulation of truths.⁵⁸ From Parmenides to Hegel, philosophy has studied the universe (*to pan*) of all things (*ta panta*); but, in doing so, it has developed a diversity of approaches. In some way, the universe of beings is always given and "known": we are acquainted with the phenomena through feelings, perceptions, representations, and standard opinions. Trusting the authority of our own senses and the education we have received, we take the phenomena as they present themselves in our immediate experiences; however, the authority of their givenness is not sufficient for providing us with an insight into their truth. In their givenness, they do not yet reveal their essence and structure, nor is it immediately clear why they exist and are such as they are. True insight demands reflection and comprehension. Thought transforms the modes in which things are given by thinking them through. Without denying or abolishing the reality of their sensible, representational, and affective appearances, thought captures their truth through concepts, judgments, and

⁵⁸ Cf. Preface (Grl pp. 5-6): "After all, the *truth* about *right, ethicality, and the state* is old, *publicly expressed* in the *public laws, mores, and religion and generally recognized*. What more does this truth require than — insofar as the thinking spirit is not content to possess it in this most immediate mode — to also *comprehend* (*begreifen*) it and to acquire the rational form for that content, which is already rational in itself? The content must appear as justified for free thought, which does not stop at the [simply] *given*, whether this is supported by the external authority of the state or the general consensus or the authority of inner feelings and the heart and the spirit's immediately agreeing testimony. Free thought starts out from itself and therefore claims that it knows itself united interiorly with the truth." For a commentary on this passage, see *Philosophy and Politics*, pp. 53-59. See also Grl 2 and 31R, and Karl-Heinz Ilting on "prior in nature" according to Aristotle and Hegel in his "Zur Dialektik in der Rechtsphilosophie," *Hegel-Jahrbuch* (1975): 38-45, and n. 17 (p. 307) of his essay "Hegel's concept of the state and Marx's early critique" in *Pelczynski, State*, pp. 93-113.

sylogistic connections. Conceptual comprehension does not separate "ideas" or "forms" from the real content displayed by the phenomena before our senses; on the contrary, it transforms their sensible reality into the full truth of their actuality, thus realizing the identity of their being and their concept in their "idea."⁵⁹ The truth or idea of a phenomenon thus encompasses its conceptual form as well as its phenomenal reality. In the idea, concept and reality are one, because the concept actualizes itself in its own concrete phenomenality. Thinking does not produce new facts, but it does produce insight through a conceptual reconstruction of things that were already known through a preceding, immediate and factual, acquaintance.

Hegel agrees with the empiricist thesis that all things are initially given in an immediate, sensible, prescientific way before thinking can operate on them, but he does not devote much time and attention to a careful and detailed description of the surprising phenomena that populate the world. He is not an exemplary phenomenologist. Much more energy is devoted to the conceptual reconstruction of the encountered reality. One of his most venerated examples of this approach is Spinoza's geometrical method. Like many other philosophers, Hegel concentrates too much on analysis and comprehension to worry about providing an accurate picture of the given in a finely attuned language. What he seeks is transparency: How are things structured and related? How can we reconstruct their internal construction? How do they, together, compose the interconnected wholes of one universe? And how do all the components of this universe in the end refer to one principle that holds them together? The advantage of such a method lies in its well-articulated structure, but the difficulty of the deduction, especially in its initial stages, lies in the high degree of its abstractions.

Besides the authority of the empirically given, Hegel also recognizes the authority of his philosophical predecessors. Though their

⁵⁹ Cf. GW 12, p. 199: "Though the object, which is for the concept, is [. . .] given, it does not enter into the subject as an affecting object or as a for itself already determined object, or as a representation; on the contrary, the subject changes the object into a *conceptual determination*; it is the concept, which is active in the object, that relates itself to itself in it, and so — by giving itself reality in the object — finds truth."

interpretations deserve some criticism, their central thoughts can be integrated as parts or "moments" of the total truth. Thanks to dialectical transformations, former discoveries and conceptions find a place in his system. This second aspect of his philosophy gives it the character of a hermeneutical retrieval of former interpretations.⁶⁰ Rather than breaking new ground, Hegel's system is a grandiose summary and synthesis of the tradition as he understood it. Thus Hegel's philosophy presents us with a double integration: the comprehension of the empirically given is at the same time a synthesis of the conceptions that span the history of thought.⁶¹

Such integration can be found in all parts of Hegel's philosophy of nature and spirit; one example is in his philosophy of religion. Hegel tries to prove that, while each religion interprets the universe through a more or less coherent complex of images, moods, and practices, the Christian religion is the all-encompassing truth

⁶⁰ In *this* sense, I would agree that Hegel's oeuvre can be characterized as a hermeneutics (cp. Paul Redding, *Hegel's Hermeneutics* [Ithaca: Cornell University Press, 1996]), though I would insist more strongly on Hegel's retrieval of the ancients. The way in which Hegel assimilates Kant's Copernican revolution does not bring him back to a pre-Kantian dogmatism, but is much closer to Aristotle and Plotinus, several medieval authors (whom he did not know), and Spinoza and Leibniz (whom he did study) than it is to most varieties of postmodern "hermeneutics." Though Redding (p. 1, n. 1) affirms that Hegel had his "own metaphysics, with the understanding that he had freed metaphysics from its earlier dogmatic and 'substantialist' forms," he maintains also that "Hegel's ontology belongs more to the realm of hermeneutic or logico-semantic concerns than to traditional 'metaphysical' ones." The evaluation of such claims demands an in-depth study of Hegel's relationship to the classics of the Western tradition and his own interpretation of these relations in the courses on the history of philosophy. There Hegel demonstrates his almost total ignorance of patristic and medieval philosophy (for the latter he mainly relies on Tennemann's *Geschichte der Philosophie*, in eleven volumes, [Leipzig, 1798- 1819]) and his first-hand knowledge of the primary sources of the ancient Greek and modern philosophers available in his time. With respect to Hegel's assimilation of the classics, the key studies are Klaus Düsing, *die Geschichte* and Manfred Riedel (ed.), *Hegel und die antike Dialektik* (Frankfurt/Main: Suhrkamp, 1990). Once one acknowledges the extensive and abundantly documented "dependence" of Hegel on the ancients, it is impossible to see Kant's turn as a revolution that severs Hegel from pre-Kantian metaphysics. Cf. also Detlev Pätzold, "Hegels Metaphysikbegriff in Lichte seiner Darstellung der aristotelischen und der scholastischen Metaphysik," in Dieter Henrich and Rolf-Peter Horstmann (eds.), *Metaphysik nach Kant?* (Stuttgart: Klett-Cotta, 1988), pp. 602-619.

⁶¹ All forms of authority are only provisional. Philosophy is the attempt to conquer them by deducing or correcting initially accepted beliefs through proofs on the basis of a *a priori* true principles.

to which all other religions refer. His demonstration consists in a translation of the Christian worldview into the conceptual thought of his system: though religion and philosophy present their contents in different forms, he claims that these contents are fundamentally identical. Religion can be certain of its truth through faith, but only philosophy, as a "scientific" enterprise, can fully understand why the content of this faith is such as it is.

Rational reconstruction is the law of rigorous knowledge. Beginning with the immediacy of empirical data, reason transforms these — without falsification — into the realization (*Dasein*) of their concepts, which together form systematic (i.e., syllogistically coherent) wholes. The goal of this conceptualization is the totality of a system in which the nature, the composition, and the necessity of the empirical universe are comprehended.

Once a conceptual insight is won, the philosopher can then begin at the other end, i.e., with the logical structure of the concept from which the empirical reality, as the necessary concretization, (or as *Dasein*, "realization," "actualization") can be deduced.⁶² Following the way of discovery, which proceeds from immediate givenness to the fundamental principle(s) (or from the *a posteriori* to the *a priori*), the deduction shows that the existing universe necessarily follows from the principle(s). In contrast with the *methodus inveniendi*, to which Hegel's *Logic* pays little attention, the *methodus exponendi* may be characterized as a specific form of deduction (*Deduktion*).

Deduction

The word "*Deduktion*" is used several times in the *Grundlinien*, but not very often in the *Logic* or the *Encyclopedia*. Sometimes *deduzieren* (to deduce) is taken as synonymous with *beweisen* (to prove or demonstrate) and emphasized as constitutive of scientific rigor, for example, in the passage quoted at the beginning of this chapter (§ 141R end). This is also the case in the Preface (pp. 4-5), where "deduction" is associated with logical derivation, method, scientific

⁶² Hegel's way from below and his way from above can be compared with the styles of the Antiochean and the Alexandrian theology, respectively. In his philosophy of religion he endeavors to show that both ways are two moments of one and the same movement.

form, and the immanent conceptual unfolding of a thing, while the Remarks on §§ 2 and 4 use “deduction” in the sense of “proof.”⁶³

Enc C 250R presents us with an explanation of Hegel’s parsimonious use of the terms *deduzieren* and *Deduktion* in the *Encyclopedia*. Because “*deduzieren*” (with a meaning other than the Hegelian one) belongs to the terminology of the pre-Kantian and Kantian philosophy, the word is less apt for expressing his method.⁶⁴ When Hegel uses the expression, it is necessary to understand how he transformed its former meaning(s).

In the *Grundlinien*, “deduction” appears in several contexts where a concept, e.g., the concept of right (§ 2R) or free will (§ 4R), must be justified. Against various unjustified attempts at introducing a basic concept, Hegel contends that each concept — e.g., the concept of will or person or right — must be derived (*ableiten*) scientifically from other, previously derived and unfolded (*entwickeln*) concepts. Instead of picking up the concept of (e.g.) right from ordinary language or the jargon of the manuals, a philosopher must deduce the meaning and the necessity of right from other concepts, such as spirit, will, person (Enc C 444R). A definition is not scientific if it is not the result of a prior scientific development.

If all concepts and their necessary relations must be proved, does philosophy then offer a linear structure without beginning or end? Of course not, because this would make the entire series ungrounded and arbitrary. Without an *archē* and a *telos* delineating its totality, the universe would be incomprehensible; the necessity of its composition would be without foundation and no unity could be found by which all the concepts would hang together. If

⁶³ Enc A, Preface, pp. 3-4: “the realization of its systematic deduction (*ihrer systematischen Ableitung*) [. . .] which formerly was called demonstration (*Beweis*) and which is indispensable for a scientific philosophy.” See also GrI 227R, where *Beweisen* is explained as knowledge of the issue’s necessity, and 256R, where it has the meaning of a deduction of the thing’s concept. Cf. also Su 15, p. 255. In the *Kritik der reinen Vernunft* (B 116-225) Kant refers to the deduction of the lawyers, which focuses on the *questio juris*, not the *questio facti*. Hegel’s use of the word “deduction” and his deductive praxis show affinities with geometry rather than with the practice or theory of positive law.

⁶⁴ Enc A 250R: “construe, deduce as it has been called.” A similar reservation is expressed regarding *Beweis* and *Beweisen* in GrI 2: “the so-called demonstration.”

the universe is an (onto)logical system, it must be rooted in and summarized by one principle. This unique origin and end is a concept, or rather an idea — *the Idea*. It requires no proof because it imposes itself as Alpha and Omega of all that is. The unity of the universe and the coherence of all concepts is guaranteed by this idea, which unfolds *itself* in all the mutually related differentiations that together compose the all-encompassing totality. The conceptual universe (which is the onto-logical universe of all things) is the concrete self-realization of the One that differentiates itself without losing its identity. It is the One as “Identity of Identity and Non-Identity.”⁶⁵ The end (*telos*) and the principle (*archē*) are therefore the same: the original One unfolds its own (onto-logical) virtualities into the actuality of all the natural and spiritual phenomena of the existing universe. The comprehension of the empirical universe is the fully actualized origin.

All other ideas (or concepts as realized in *Dasein*) are moments of the original Idea’s self-realization. Together they constitute the finite manifestation of the Idea’s all-encompassing infinity. Instead of forming a linear series without end — and thus an indefinite, consequently *finite* series — they are the moments of a circular

⁶⁵ Cf. GW 4, p. 64: “Das Absolute selbst aber ist darum die Identität der Identität und der Nichtidentität; Entgegensetzen und Einssein ist zugleich in ihm.” Cf. GW 9, pp. 416-417. In the *Logic* (GW 11, p. 37, cf. pp. 21 and 60), Hegel repeats that this formula indeed is “the purest definition of the absolute”: “The analysis of the beginning would thus yield the concept of the unity of being and non-being — or, in reflected form, the unity of being-distinct and not-being-distinct — or the identity of identity and non-identity. This concept could be seen as the first, most pure definition of the absolute — which it indeed would be, if the form of definitions and the name of the absolute would be the central issue.” The reservation expressed in the conditional phrase at the end does not deny what precedes, but underlines the deficiency of all names and definitions that are not yet sublated in the simplicity of an idea (whose syllogistic structure manifests its internal complexity). It is impossible to understand the quoted phrase (in which “identity” figures *two* times) as the expression of an equivalence between the identical (the one) and the different (the many). The same (*tauton*) differentiates *itself* into different moments (*ta hetera*), thus showing that it, as the same, is also the “differing.” However, the identity is not only the initial same; it is *also* the composite same, which has re-united “the differents” (*ta hetera*), thus integrating their difference (*heterotēs*) as an inner moment of itself. Identity, as inner-differentiated self-identity, cannot be replaced by any property or accident or “mentality” of the differents. A full interpretation of the famous and often quoted formula demands a thorough comparison with Plato’s analysis of *tautotēs* and *heterotēs* in the *Sophist* 254b-256d. See Klaus Düsing, *die Geschichte*, pp. 53-55, 105-110, 120-132, 143-150, and 157-159.

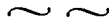
structure: they constitute the dynamism of the Idea's becoming (actually and "for itself") what it always already, "in itself" and virtually, is. Without its subordinate moments, the Idea could not be what it is. The empirical reality of all ideas, or the necessity that all true concepts realize themselves, thus constituting ideas, is inherent in their (onto)logical nature. Their essence is made manifest through the (self-)creating and (self-)revealing power of the Idea.

"Spirit" is a more concrete name for the (onto)logical Idea. In it, we recognize the *Nous* of Anaxagoras, Aristotle, and Neoplatonism,⁶⁶ but there is at least one fundamental difference. The *Nous* of Plotinus and Proclus equally encompasses the entire onto-logical *kosmos noētos*. However the One (*to Hen*), which is the originating origin from which the *Nous* flows out, remains absolutely separate from the noētic and actual universe, thus maintaining its absolute infinity. Plotinus refused to consider any blurring of the line between the One and the onto-noētic universe, because the latter's universality or totality would contaminate the simplicity and infinity of the origin. As totality, the *Nous* is composed — and consequently finite — and as universality, it participates in the cosmic finitude.⁶⁷ Hegel, however, considers a separate infinite impossible. Because he sees all distinctions as mutually constitutive relations, an opposition between the infinite and the finite would bind them together as two moments of one totality, which, as a final whole, would then be the true infinite of which the finite *and the opposed "infinite"* would be the constitutive components. Hegel's concept of infinity is in fact identical with the concept of totality: the all-encompassing or concretely universal whole is for him the only true infinite. All transcendence must be inscribed within a circular horizon. In Hegel's universe, there is no space left for any

⁶⁶ Alfredo Ferrarin, who in *Hegel Interprete di Aristotle* (Pisa: ETS, 1990), p. 49, n. 24, refers to Hegel's remark that the neoplatonism of Plotinus and Proclus "could also be called neoaristotelianism" (cf. Su 19, p. 438), also dedicates a section (pp. 132-137) to Hegel's interpretation of the *nous*.

⁶⁷ Cf., for example, Plotinus, *Enneads*, V 3; V 6; VI, 9, 6; or see A. H. Armstrong's synthesis of Plotinus' philosophy in A. H. Armstrong (ed.), *The Cambridge History of Later Greek and Early Medieval Philosophy*, (Cambridge: Cambridge University Press, 1970), pp. 222-268, and Werner Beierwaltes, "Hegel und Proklos," in Rüdiger Bubner, Konrad Cramer, Reiner Wiehl (eds.), *Hermeneutik und Dialektik* (Tübingen: Mohr, 1970), pp. 243-277.

excess: the cosmos is well-rounded and the One coincides with it, while originating and consummating it.⁶⁸



The demand that all concepts — or at least the key concepts — of philosophy be rigorously deduced, sets a very high standard. Do Hegel's own deductions correspond to such a standard? He does not pretend that he is always successful in his deductive practice⁶⁹ and the various versions of some deductions give the impression that he, like a chessplayer, is still experimenting with different moves. However, his demands seem to follow from the Leibnizian principle that full comprehension implies understanding of the necessary *and sufficient* grounds of all that is and all that occurs. If rationality is equivalent to an answer to the question "why?" in the sense of an internal necessity, Hegel's methodology is sound. Whether we are then burdened with a superhuman task is another question. But Hegel never replaced his demand for proof with a plea for plausibility or "convenience" in the sense of the medieval *convenientia*. On the contrary, he very often shows contempt for the "reasoning" (*Räsonieren*) of those authors who forward many reasons for or against theses about all kinds of issues without,

⁶⁸ In identifying the ultimate unity as totality, Hegel rejects the Christian conception of creation. Is it possible to free the concept of totality from its association with the category of quantity? A complete accumulation of finite entities (if such a sum is possible) would not constitute more than a finite universe — it would be as finite as one of its components. Whenever a synthetic whole (a true idea) is discovered, Hegel characterizes it as "infinite" (*unendlich*). Though he understands God (or the fully actualized Spirit) as absolutely infinite, he thinks that God's immanence in all finite beings justifies that characterization. Has the infinitely infinite God died by coinciding with the "infinite" universe of finite-infinite beings or does he live on in a human, earthly, and historical mode? Herein lies the ambiguity of Hegel's philosophy.

⁶⁹ At the end of his Preface to the second edition of the *Logic* (1832), Hegel recounts the anecdote that Plato rewrote the *Republic* seven times. He then expresses the wish that he himself would have had "the time to leisurely rework seventy seven times" his *Logic*, for which he could not appeal to any existing work. The production of a better book was prevented by external circumstances and the inevitable distractions caused by the magnitude and multiplicity of certain events, but also by his "doubting that the noisy business of our time and the deafening verbosity of widespread vanity [. . .] still allows for participation in the dispassionate silence of thinking knowledge" (GW 21, p. 20). For Hegel's method of justification in the *Grundlinien*, see also Ludwig Siep, "Philosophische Begründung des Rechts bei Fichte und Hegel," in Siep, *Prakt. Phil.*, pp. 65-80.

however, reaching a synthetic insight into the necessity and internal structure of any of them.⁷⁰ A clear statement about the standard itself, which at the same time defines the task of the *Rechtsphilosophie*, can be found at the beginning of GrI 279R:

The immanent unfolding of science, the *derivation of its entire content* from the simple *concept* (otherwise a science certainly does not deserve the name of a philosophical science) shows its proper character herein that one and the same concept (here [it is] the will), which initially [. . .] is abstract [. . .] by itself consolidates its [own] determinations, while maintaining itself, and thus acquires a concrete content.

To gain a proper understanding of Hegel's insistence on rational necessity as a feature of comprehension, one should also recognize the role of contingency (*Zufälligkeit*) in his system. Contingency is an essential and necessary category of Hegel's logic; it belongs to the finite appearances of the Idea and permeates the entire universe. Much of nature and spirit is *necessarily* contingent, examples of which include many facts and events of the historical, legal, and political world and, even more so, the shapes and motions of individual phenomena in nature. Herr Krug, who asked Hegel to deduce his pen, had not understood the logical status of contingency. Only the general occurrence of contingent phenomena can be deduced; not their precise and circumstantial singularity.⁷¹

⁷⁰ For the contrast between reasoning (*räsonnierendes* or *reflektierendes Denken*, *Raisonnement*), which is an activity of the reflecting *Verstand* when it is not subordinated to the *Vernunft*, and comprehending (*begreifendes* or *spekulatives Denken*), see the Preface to the *Phenomenology of Spirit*, GW 9, pp. 41-46, and the *Logic*, GW 11, p. 311: "Seeking and forwarding reasons (*Gründe*), which is what *Raisonnement* mainly does, is [. . .] an endless prowling around (*Herumtreiben*) without final determination; one can indicate good reasons for everything, as well as for its opposite, without any conclusion following from it. What Socrates and Plato call *sophistry* is nothing else than *das Raisonnement aus Gründen*; Plato contrasts it with the consideration of the idea, i.e., with the issue (*Sache*) in and for itself." Cf. also Su 18, p. 420: "The sophists were masters in reasoning from reasons; they stay on the level of reflecting thought." Among the modern philosophers, Locke is paradigmatic for the widespread method of *Raisonnement* (Su 20, pp. 222-223). In the *Grundlinien*, Hegel reproaches this kind of reflection for its inability to understand the unity of the state (§ 279R): "The concept of the monarchy is the most difficult concept for the *Raisonnement*, i.e., for the consideration of the reflecting *Verstand*, because this stops at singularized determinations and knows only reasons (*Gründe*), finite viewpoints and *derivations* from reasons."

⁷¹ On Traugott Krug, see GW 4, p. 178 ff.; on the problem of contingency, see Dieter Henrich, "Hegels Theorie über den Zufall" in his *Hegel im Kontext*

If comprehension is Hegel's goal, and not the discovery of as yet unknown facts or laws, the knowledge he seeks is no longer a form of contemplation in response to amazing wonders, but rather the overcoming of enigmatic appearances and deficient explanations. Aristotle's *thaumazein*⁷² has been transformed into an inquisitive attack: thinking wants to grasp, comprehend, conquer, master the phenomena as its own. Appropriation and mastery are the modes in which Hegelian freedom realizes itself, even on the epistemic level. However, the aggressiveness of Hegel's thought does not necessarily transform his idealism into a subjectivistic theory. Because thought and being are identical, the logical analysis does not seek to impose arbitrary patterns on its objects; rather, the objects unfold their truth before the eager eye of the thinker. The thing itself (*die Sache selbst*) develops the ontic structure that rigorous thought elicits from it while (re)constructing it in truth. The thing, and *a fortiori* the universe (*to pan*), *comprehends itself* in the thinking of the philosophers. The ultimate truth about the universe is the Idea as having realized and comprehended itself or, in other words, the Spirit who knows itself as identical with the universe.

Self-Determination

If the Spirit (or the actualized Idea) is identical with the universe, not only do subject and object ultimately coincide, but likewise the concept and its reality, the form and its content, the abstract and the concrete side of the idea, and so on. This identity is complete

(Frankfurt/Main: Suhrkamp, 1971), pp. 157-186; John W. Burbidge, "The Necessity of Contingency: An Analysis of Hegel's Chapter on 'Actuality' in the *Science of Logic*," in Warren E. Steinkraus and Kenneth I. Schmitz (eds.), *Art and Logic in Hegel's Philosophy* (Atlantic Highlands, N.J.: Humanities Press, 1980), pp. 201-217; George di Giovanni, "The Category of Contingency in the Hegelian Logic," *ibidem*, pp. 179-200; Stephen Houlgate, "Necessity and Contingency in Hegel's *Science of Logic*," in *The Owl of Minerva* 27 (1995-96): 37-49. Cf. GrI 214R: "Reason (*Vernunft*) itself recognizes that contingency, contradiction, and appearance have their — *albeit limited* — sphere and right. . . ." Cf. also GrI 216Z and 274R. In *The Critique of Pure Modernity: Hegel, Heidegger, and After* (Chicago: University of Chicago Press, 1986), p. 278, n. 6, David Kolb rightly emphasizes that Hegel does not offer a clear criterion for drawing the line between the necessary and the contingent. Where do Alexander the Great or Caesar belong? And where the geography of Africa? (Cf. Su 12, pp. 116 and 120 ff.)

⁷² Aristotle, *Metaphysics* A, 2, 982b11-12.

on the ultimate level of the Spirit where it has run its course through all the manifestations of its (self-)revelation; but it also verifies itself — albeit in a finite and imperfect mode — on the lower levels of logos, nature, and spirit. Each being is a different expression of the absolute identity, which is the integration of all the differences that compose its “infinite” totality.

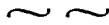
Since the Idea (or the Spirit) itself, as active principle, directs its own motion toward concretization, it maintains its identity with itself throughout all its differentiations. The latter therefore do not have the character of a dispersion or dissemination. The different moments in which the Idea actualizes itself are internal determinations of the Idea itself. The Idea determines itself. It is the activity or “actuality”⁷³ of its self-determination.

Determination has two main structural moments: particularization and singularization. As origin and (re-)collection of all its determinations, the idea (or its primary constituent, the concept) is the *universal* moment that unfolds *itself* in a number of *particular* determinations, which then become fully concrete in *singular* instances. This structure of the concept is Hegel’s retrieval of the traditional distinction between *genus* (the universal), *species* (the particular), and *individuum* (the singular). Because his concept is the synthesis of these three moments, he can maintain that the concept of a thing coincides with its reality.

The originary character of the identical, universal, and encompassing aspect of the concept (or idea) guarantees that its particular and individual determinations remain within the boundaries of its definition. The self-determination of a concept (or its actual being) is completely immanent, but all determinations imply at the same time relations to other concepts (or beings). Its relations are therefore as much internal as external. The supremacy of the

⁷³ Hegel inherited the word “*actuositas*” from the scholastic tradition (according to the *Hist. Wörterbuch*, vol. 1, col. 146, it appears for the first time in the work of Albertus Magnus). Akin to *actualitas* (*Wirklichkeit*, which must be understood within the framework of Aristotle’s *dynamis* [*potentia*] and *energeia* [*actus*]), *actuositas* expresses the active and causal character of the spirit: “God is subjectivity, activity, infinite actuality. . .” (Enc C 247). For the interpretation of this and other passages in which *actuality* is used, see my “Ken u zelf!” of ‘Wat is filosofie van de geest?’ in *Tijdschrift voor Filosofie* 42 (1980): 752-755. See also GW 11, pp. 394 (“This movement of the accidentality is the *actuality* of the substance”) and p. 397 (“Therefore the absolute actuality is *cause*”) and Vorl 5, pp. 196 and 586.

identical moment in relation to the differences it generates is clearly expressed in the repetition of "identity" in the already quoted expression "identity of identity and non-identity." The unicity of the concept, the idea, the spirit, the absolute, or "God" is never doubted in Hegel's work.⁷⁴



In the *Grundlinien*, Hegel very often appeals to his fundamental thesis about the self-realization or self-actualization of a concept through which it procures a determinate mode of being for itself.⁷⁵ Although the *Logic* introduces important distinctions between being-there (or being in a determinate way, *Dasein*),⁷⁶ existence (*Existenz*), concreteness, reality (*Realität*), and actuality (*Wirklichkeit*),⁷⁷ the *Grundlinien* often uses these expressions more

⁷⁴ Many misunderstandings have resulted from the neglect of Hegel's logic of the idea (GW 12, pp. 173-253; Enc A 161-191; BC 213-244). Idealism has nothing to do with a preference for imagination, *Vorstellungen*, or subjective "ideas" over the empirically real. "The opposition of idealist and realist philosophy is [...] without meaning." "Idealism is nothing else than the non-recognition of the finite as truly being. All philosophy is essentially idealism" because all philosophy recognizes the principle that all finite realities are posited, "*ideell*," i.e., founded in something else: a concept, an idea, the spirit, God, the absolute. "A philosophy that attributes true, ultimate, absolute being to finite *Dasein* as such [and thus does not understand it as the empirical realization of its idea] does not deserve the name 'philosophy'" (GW 21, p. 142).

⁷⁵ One of the many examples is Wa 50 (§ 44R): "What is and corresponds to its concept, must (*muß*) be."

⁷⁶ According to Hegel's explicit logic (cf. Enc A 43; BC 90; GW 11, pp. 59-60), *Dasein* is the most immediate (kind of) determinate being, being in its immediately immediate determinateness. It is the kind of being that already includes its indeterminate opposite, "nothingness." As the most immediate determination, it is no more than the most simple unqualified *quality*. Insofar as it is not another quality or determination, being-there (*Dasein*) is reality (*Realität*). In the *Grundlinien* Hegel uses *Dasein*, *Realität*, and *realisieren* also in a non-technical sense. *Existenz* is a qualified form of being or existing, which belongs to the logic of essence (*Wesen*) and appearance (*Erscheinung*). See the helpful comments in T. F. Geraets, W. A. Suchting, and H. S. Harris (eds. and trans.), *The Encyclopedia Logic*, pp. xiii-xxviii and 338-342. *Being*, *Dasein*, *Realität*, *Existenz*, *Wirklichkeit*, etc., are different levels of determination ranging from the most indeterminate to the most determinate (or, to speak in Aristotelian terms, from pure potentiality to complete actuality).

⁷⁷ I use actuality (*Wirklichkeit*) most often in the technical sense of Hegel's *Wirklichkeit*. As the unity of essence and appearance, interiority and exteriority, it includes the *energeia* of its potentiality and the rationality of its reality (Enc A 91 ff.). If this is taken into account, the (in)famous dictum of the Preface to the *Grundlinien* ("What is rational is actual and what is actual is rational," p. 14) is

or less synonymously. They indicate different levels of one and the same movement: the existing, determinate reality of the cosmos in which we find ourselves must be understood as the result of a dynamism through which the (abstract or logical) Idea makes itself concrete, real, determinate, actual. "Emanation," "Incarnation," "Creation," and "Revelation" are used by Hegel to name the framework of his thought, but the Hegelian explanation of their meaning should not be sought outside his (Onto)Logic. The unity of the Idea, as the unity of the concept (*Begriff*) and its *Dasein*, and its actualization in Nature and Spirit represent Hegel's attempt to reconcile rationalism ("the old metaphysics") and empiricism, the *a priori* and the *a posteriori* moments of knowledge, (abstract) logical thought and sensible representation,⁷⁸ the abstraction of a "God before creation" and the phenomenal (but divine) universe in which we live, the Spirit's internal constitution, and its empirical externalization.

Hegel continually appeals to this overall principle.⁷⁹ For example, in GrI 66R he "applies" it while appealing to the first definition of Spinoza's *Ethica*.⁸⁰ What Spinoza calls *Substantia* is for Hegel the Idea (which is not only substance, but also subject). As totally independent or *a se*, it is *causa sui*, and

as *causa sui*, i.e., as free cause, it is such *cujus natura non potest concipi nisi existens* [that whose nature cannot be comprehended except as existent] (Spinoza, *Ethica*, Pars I, *Definitio I*).

In the end, all of Hegel's concretizations of his dynamic principle are "applications" of the ontological argument to all the concepts of the universe: each concept repeats in a finite field the dynamic structure of the Absolute. That the externalization is only the first moment of the Idea's overall dynamism, which is followed by a moment of return, is essential for Hegel's conception of logic and

almost a tautology, as Hegel argues in Enc C 6R. Cf. *Philosophy and Politics*, pp. 92-103. On *Wirklichkeit*, see the thorough study by Gabriella Baptist, *Il problema della modalità nelle Logiche di Hegel: Un itinerario tra il possibile e il necessario* (Genova: Pantograf, 1992).

⁷⁸ On the relation between representation and conceptuality, see Hegel's interesting remarks in Su 20, pp. 377-378 and the studies quoted in note 47.

⁷⁹ For example, in GrI 47R, Enc A 161, 164, 259 ff, and 298.

⁸⁰ "Per causam sui intelligo id cujus essentia involvit existentiam; sive id, cujus natura non potest concipi, nisi existens." Cf. Su 20, p. 168 and Düsing, *die Geschichte*, pp. 170-195.

ontology. It will be explained below and illustrated in the course of this commentary.

Concept-Judgment-Syllogism

Hegel's conception of the concept as the unity of universality (or generality), particularity (or specificity or differentiation) and singularity (or individuality) greatly differs from the abstract concepts that the pre-Hegelian tradition opposed to judgments and syllogisms. Using the etymological sense of the German *Urteil* (original *Teilung* or division), Hegel points out that a judgment, as connection of a predicate with a subject, emphasizes a form of non-identity, for which he sometimes uses the words "dis-uniting" (*Entzweiung*) or "contradiction" (*Widerspruch*). The syllogism, however, shows the structure of a higher unity that is made comprehensible by it. Indeed, a syllogism is the union of an analytic explication and a (re)union of the three elements constitutive for the issue unfolded in it. In the simplest form of the Aristotelian syllogisms, the mutual implication of the universal, particular, and singular moments of a thing can be shown in the following way.

If (it is true that) Socrates is human, and if (it is true that) being human is being mortal, then (it is true that) Socrates is mortal. The (onto)logical union in which the elements Socrates, (being) human, and (being) mortal are bound together by three component judgments gives an insight into the truth of Socrates' mortality. He must die because he is human. The inexorable link between Socrates' individual existence and his death is understood as a necessity inherent in the human essence. Being human, which is a specific or *particular* kind of reality, is here the middle (term) (*die Mitte*) that both guarantees and reveals that this *individual* cannot escape the *universal* fate of mortality. Being human here "mediates" (*vermittelt*) between the extremes Socrates and mortality.

Hegel's theory of the syllogism is much more complicated, of course;⁸¹ but his entire retrieval of Aristotle's theory of syllogistic

⁸¹ Hegel presents his speculative analysis and synthesis of the Aristotelian theory of syllogisms (see Aristotle's *Prior Analytics*) in the *Logic* (1816), GW 12, pp. 90-126, and in a summary in Enc A 129-139. "The syllogism is [. . .] the *rational* and all that is rational" (§ 129).

proofs is dominated by the same principle: comprehension is possible only through mediation (*Vermittlung*); insight is the knowledge of how a thing is constituted as a union of its generic, specific, and singular elements. The complete theory of an object or field of investigation is nothing other than a totality of mutually connected syllogisms, and the overall system of the universe is the all-encompassing super-syllogism of all interconnected and hierarchically-ordered syllogisms. This implies that the overall unity of the total system (i.e., the universe) is structured as the mutually inclusive mediation of the three highest syllogisms. The summit and horizon of the universe is therefore a trinity.⁸²

Finitude and Infinity

Because the ultimate or absolute, according to Hegel, is the self-identity that differentiates and comprehends itself as the absolute totality of all things (or actualized concepts), it cannot be opposed to anything else. Otherness can only occur as an internal self-differentiation. This is the reason Hegel calls the totality the absolute, the truth, the infinite, God.

In this context, Hegel reacts rather fiercely to those theologians and philosophers who contend that God or the Infinite infinitely transcends the finite universe, or who, like Plotinus, separate the

⁸² Cf. *Selbsterkenntnis*, pp. 117-157. On the triplicity of speculative thought — a triplicity that also can be presented as a duality or quadruplicity — see Hegel's *Logic*, GW 12, pp. 247-248. By itself, triplicity is a superficial and external property; what is important, however, is the unification of different elements (or "moments") by mediation — a mediation that includes a double negation. The presentation of Hegel's philosophy as a series of theses that generate their own antitheses, which must then be united or "synthesized" with the original theses, has been called a myth or legend (see Gustave E. Mueller, "The Hegel-Legend of 'Thesis-Antithesis-Synthesis,'" in Jon Stewart [ed.], *Myths*, pp. 301-305). Though Hegel indeed did not use such a schema, it is obvious from the study of his deductions that he almost always tries to discover a threefold structure in his material, even when it seems inappropriate. Cf., for example, the various attempts at construing threefold sequences at the end of the philosophy of subjective spirit: Enc A 389-399, B 470-481, C 470-480, and Hegel's numbering (see the structural analysis in *Hegels prakt. Phil.*, pp. 90-97). Michael Forster (*Companion*, p. 131) is less severe with regard to the thesis-antithesis-synthesis schema; cf. also his note 5 on p. 161 of the *Companion*. When Hegel himself speaks of "synthetic" knowledge, he contrasts it with analytical knowledge (see note 7).

one Origin from the onto-noetic totality of "ideas." His argument for this was already explained above. It can now be reformulated in terms of conceptual and syllogistic coherence. If the ultimate truth consists in the duality of an infinite God and a finite cosmos, a final judgment (*Ur-teil*), expressing an incomprehensible opposition, is the last word. The beginning and end of all things is then an unbridgable abyss; the Spirit is fundamentally divided and, in the end, Reason fails.

If, however, the Absolute is simultaneously infinite and total, and if all things are finite actualizations of the Absolute, they are finite versions of the Infinite. Within the boundaries of their concept they mirror the structure of the absolute Spirit, which is why Hegel also often calls *their* perfect actualization infinite. Within their own boundaries they are actually and concretely what their concept contains; their content fully realizes what their conceptual form spells out. In Aristotelian and scholastic terms, they are the act or actuality (*actus, energieia*) and perfection (*perfectio, entelecheia*) of their possibility (*potentia, dynamis*). The Aristotelian background must also be kept in mind when Hegel uses Kantian and Fichtean terminology to express the difference between the abstract concept of some entity and its concrete actuality.⁸³ The concept expresses what the thing is "in itself" (*an sich, potentialiter, dynamei*). Once this potentiality is perfectly actualized, it is "in-and-for-itself" (*an und für sich*). On the way from its being-in-itself (*Ansichsein*) to its being-in-and-for-itself (*An-und-fürsichsein*) the thing is not yet fully for itself (*für sich*) what it is in itself (*an sich*). As long as the concept of a thing is still under way from its possibility to its actuality, it is involved in a not-yet-finished movement (*kinēsis*) of becoming (*genesthai*), during which it (namely, its reality) differs from itself (its true concept). Its "in-itself" and its "for-itself" are not yet or no longer identical; it shows a certain duality or scission (*Entzweiung*), opposition (*Gegensatz, Entgegensetzung*), or contradiction (*Widerspruch*), which must be resolved before its unity can arise.

⁸³ See the long chapter on Aristotle in Hegel's *History of Philosophy*, Su 19, pp. 132-249, especially pp. 154-167, 204-207, and 213-216, and the studies recommended in note 11.

Sollen

From the preceeding explanations it follows that a concept is not only an abstract pattern that delineates the essence of some thing or event, but it also contains an exigency, insofar as the concept must (*soll*) become concrete through actualization. Between its possibility and its actuality — during its ongoing realization — each being is under the regime of an appropriate *Sollen*; it is engaged in the task of fully becoming what it always already (conceptually and potentially) is. Since the German “Sollen” has strong moral connotations, the word is mostly used in moral and political contexts, but its meaning can also be broadened to a basic ontological category. It is analyzed as such in the first volume of Hegel’s *Logic*.⁸⁴

Contrary to a popular misunderstanding, Hegel is an enemy of neither “*Sollen*” in general nor moral obligations in particular. *Sollen* is inherent in all concepts and things that have not yet reached their perfection. Surely a host of things and concepts! As long as an appearance is not the complete manifestation of its essence, for example, it must (*soll*) still develop further. It ought to overcome the restriction (*Schranke*, *Beschränkung*) that prevents its perfection.

What Hegel criticizes, especially in discussions with Kant and Fichte, is not the concept of *Sollen* as such, but the theory that complete or perfect actuality, particularly in the dimension of ethics, is unattainable. By stating that the last word about human reality is a perennial (*perennierendes*) *Sollen* without end, Kant and Fichte replaced the true infinity of the Absolute with the pseudo-infinity of an ongoing approximation, a sort of mathematical or tangential series or movement that never ends. If this “infinity” constitutes the framework of reality, obviously no true totality and ultimate unity are possible and the conceptual basis of the logic, as the theory of the one and overall Idea, founders.

Hegel’s criticism of Kant’s and Fichte’s idealism, which he deems too subjective and finite, does not prevent him from

⁸⁴ *Logic*, GW 11, pp. 73-78. The second edition (1831) offers a more extensive critique of *Sollen* as analyzed by Kant and Fichte: GW 21, pp. 118-123. *Sollen* belongs to the dimension of limitation and finitude, but it also achieves a transition from the finite to the infinite. See also Enc A 43 and C 94.

integrating many of their analyses of *Sollen* into appropriate parts of his own theory, especially in his philosophy of subjective spirit and morality.⁸⁵ However, in all these parts he is concerned with instances of imperfect, restricted, fractured, or underdeveloped phenomena or structures. *Sollen* is characteristic for the intermediary and mediating, but still unfulfilled, stages of life and thought.

Hegel's Pantheism

The basic tenets of Hegel's system, summarized in the preceding pages, are incomprehensible when read in a nominalist, empiricist, or positivist framework. They are also rejected by most orthodox Christians. However, if reason is essentially conceptual, synthetic, and limitlessly powerful — as Hegel's enlightened "faith in Reason" would have it — one can understand, even though one does not approve of, his transformation of Aristotelian, Neoplatonic, Spinozistic, Kantian and Christian philosophy and theology into a pantheistic conception of the universe. It is therefore puzzling why some widely quoted Hegel scholars flatly deny that Hegel's system is metaphysical, monist, or onto-theological. In particular, the denial that Hegel's Idea and Spirit have anything to do with the theological traditions of Europe rests on a misunderstanding of *his* notion of "God."

In Hegel's conception, God is certainly not an individual entity or singular person above other angelic, demonic, or human individuals, but rather a principle whose actuality is none other than that of the existing, finite but complete and all-encompassing, and in that sense infinite, universe. It is therefore not incorrect to say that Hegel has completely secularized the theological tradition and that his system is atheistic, if the Christian or Jewish or Muslim orthodoxies are taken as criteria. Criticizing a philosophy in the name of preconceived ideas of "reality," "ideas," "experience," "thought," "universe," or "God" is not the most fruitful approach, however. Are not these and similar notions the most difficult ones to correctly conceive? That Hegel's philosophy

⁸⁵ E.g. Enc A 391-392, 420-425; B 470-474, 507-510; C 470-473, 507-510 and *Hegels prakt. Phil.* pp. 35-57 and 210-214.

is unitarian and totalitarian in the sense I have attempted to formulate, seems to me obvious on the basis of all his mature works, especially those published after 1807. To what extent this fact is relevant for our own thinking is another question, which demands a separate treatment.

Some authors, especially Anglo-American commentators, who strongly object to Hegel's monism, try to separate what in his work is still significant or useful, and what is bad or outdated. As Thomas E. Wartenberg explains in the *Cambridge Companion to Hegel* (p. 121), many contemporary analytic philosophers who seek to "unveil the 'rational core' behind the 'mystifying shell' of Hegel's idealism," . . . "reject the monist reading," because, "from the standpoint of the contemporary analytic philosopher, the idea that all of reality [. . .] is the product of the actions of *Geist* is simply unpalatable."⁸⁶ That an interpreter's palate can function as the criterion for historical commentaries is an uncommon thought, which would deserve analysis, but equally relevant is the summary of Hegel's thought about the Spirit contained in the words "product of the actions." This approach suggests the naive conception of a divine worker who produces, as a contractor or poet, an enormous work; but this does not express Hegel's extremely sophisticated, though perhaps unacceptable analysis of the Idea, unfolded over the 1600 pages of his *Logic* and the entire *Encyclopedia*. However, when criticizing Hegel's version of the theological tradition, it should not be compared with some popular image of God in heaven, but rather with the great (onto)theologies from Plato and Aristotle via Thomas and Scotus to Spinoza, Leibniz, Kant, Fichte, and Schelling.⁸⁷

⁸⁶ Wartenberg's remark, which echoes similar remarks by other Hegel commentators, has the merit that it clearly states a hermeneutical but non-historical reason for his reconstruction of Hegel's philosophy.

⁸⁷ Obviously I cannot provide a complete proof within my interpretation of the *Grundlinien* for what I take to be his onto-theo-logy. I try to walk a middle path between right and left Hegelians by stressing the ambiguous or Janus-like character of Hegel's identification of God with the totality. For a succinct but profound interpretation of Hegel's ultimate horizon, see Franco Chiereghin, "Wozu Hegel in einem Zeitalter der Endlichkeit?" in *Hegel-Studien* 33 (1998): 191-207.

From Substance to Subject

One of the most quoted phrases from the Preface to Hegel's *Phenomenology of the Spirit* is the following:

the main task is to comprehend and to express the true (*das Wahre*) not as *substance*, but just as much (*ebensosehr*) as *subject*.⁸⁸

The phrase is not well formulated: "just as much" (*ebensosehr*) is a denial of "not" by affirming that "the true" (*das Wahre*) is both substance *and* subject, and thus "not" must be understood as "not only," while at the same time suggesting that "subjectivity" is a "higher," more encompassing and unifying title than substantiality, as the *Phenomenology* indeed wants to prove. In the *Logic* and the *Grundlinien* the category "substance" continues to play a fundamental role, and its necessary transformation into a (substantial) subject called spirit (*Geist*) is maintained and thematized in the (onto)logical transition from substantiality, as the perfection of being (*Sein* that is *because* it is⁸⁹) and actuality (*Wirklichkeit* as actual in and for itself⁹⁰), to the subjectivity of the concept.⁹¹ The chapter of the *Logic* that is devoted to this transition makes it abundantly clear that the Absolute (and thus the Idea, the Spirit) is substance.⁹² More than Aristotle's *ousia*, it is Spinoza's *substantia* that

⁸⁸ GW 9, p. 18.

⁸⁹ GW 11, p. 394.

⁹⁰ GW 12, p. 12.

⁹¹ GW 11, pp. 393-409 and 12, pp. 11-31.

⁹² GW 11, pp. 369, 394, and 403; GW 12, p. 12 ("The substance is the *Absolute*, the actual in and for itself — *in itself* as the simple identity of possibility and actuality, absolute essence that contains all actuality and possibility *in itself, for itself*, this identity as absolute *power* or absolutely self-reflexive *negativity*") and p. 14 (The subject is the *Vollendung, telos*, completion of the substance. Spinoza's system maintains the standpoint of the substance). For Hegel's use of "Substanz" to translate Aristotle's *ousia*, see Su 19, pp. 159 and 200-201. On pp. 201 and 218, *ousia* is also translated as *Wesen*, however. The standard work on Hegel's conception of subjectivity is Klaus Düsing's *Subjektivität*. See also his "Hegels Begriff der Subjektivität in der Logik und in der Philosophie des subjektiven Geistes," in Dieter Henrich (ed.), *Hegels philosophische Psychologie* (Bonn: Bouvier, 1973), and "Idealistische Substanzmetaphysik: Probleme der Systementwicklung bei Schelling und Hegel in Jena," in Dieter Henrich and Klaus Düsing (eds.), *Hegel in Jena: Die Entwicklung des Systems und die Zusammenarbeit mit Schelling* (Bonn: Bouvier, 1980), pp. 25-44; Rolf P. Horstmann, "Über das Verhältnis von Metaphysik der Subjektivität und Philosophie der Subjektivität in Hegels Jenaer Schriften," in *Hegel in Jena*, pp. 181-195; Walter Jaeschke, "Absolute Idee — absolute Subjektivität: Zur Problem der Persönlichkeit Gottes

here forms the background, as is clear from Hegel's own appeal to Spinoza in this context.⁹³

The Absolute is indeed substance and therefore Spinoza's system "is perfectly true"; this truth should not be considered an opinion, a subjective, arbitrary, and individualistic way of representing or thinking [the Absolute]. However, this truly speculative affirmation does not represent "the highest standpoint" of thought.⁹⁴ Spinoza's truth becomes false by declaring it the ultimate and most fundamental truth, as happens at the beginning of his *Ethics*, where God is defined as the unique and absolutely infinite substance.⁹⁵

It is therefore anti-Hegelian to claim that Hegel's universal Spirit is not a substance, as some commentators have done; but it is equally un-Hegelian to deny that this substance is a conceptual comprehension and free willing of itself and thus a spiritual substance. What Spinoza's substance lacked was freedom, the self-negating moment through which the spirit not only is actual, substantial, causal, and cause of itself, but is also for itself, transparent for its own thought, "the eternal Idea in and for itself," which "activates, generates, and enjoys itself as absolute spirit."⁹⁶

in der Logik und in der Religionsphilosophie," in *Zeitschrift für Philosophie* 35 (1981): 385-416; Klaus Düsing, "Endliche und absolute Subjektivität: Untersuchungen zu Hegels philosophischer Psychologie und zu ihrer spekulativen Grundlegung," in *Eley, Subj. Geist*, pp. 33-58; Claudio Cesa, "Considerazioni provvisorie sulla soggettività Hegeliana: Posizione o crisi," in Antonio Bruno (ed.), *La crisi del soggetto nel pensiero contemporaneo* (Roma: FrancoAngeli, 1988), pp. 13-41.

⁹³ GW 11, p. 376; 12, p. 14; Enc A 139R, 108R; Enc B Preface (GW 19, pp. 9-11); Su 19, pp. 163-168.

⁹⁴ GW 12, p. 14.

⁹⁵ Spinoza, *Ethica* I, Definitio 6: "By 'God' I understand the absolutely infinite being, i.e., the substance that consists of infinite attributes, of which each one is eternal and expresses an infinite ens." (Per Deum intelligo ens absolute infinitum, hoc est substantiam constantem infinitis attributis, quorum unumquodque aeternam et infinitam essentiam exprimit.) Cf. Definitio 3: "By 'substance' I understand what is in itself and is comprehended by itself, i.e., that whose concept does not need the concept of anything else to be formed."

⁹⁶ Enc C 577; cf. GW 12, pp. 15-16. In his masterful *Le droit naturel de Hegel* (1802-1803): *Commentaire. Contribution à l'étude de la genèse de la spéculation hégélienne à Jena* (Paris: Vrin, 1986), Bernard Bourgeois demonstrates the crucial relevance of Hegel's long article, "Über die wissenschaftlichen Behandlungsarten des Naturrechts, seine Stelle in der praktischen Philosophie, und sein Verhältnis zu den positiven Rechtswissenschaften," published in 1802 (GW 4, pp. 415-485), for his realization of the identity of substance and subject. See the

To perhaps appease those scholars who are shocked by Hegel's speculative, "metaphysical" and "theological" understanding of the universe and its principle, it must be repeated that the infinite substance is not an individual entity besides or above other individuals within the horizon of the natural and spiritual cosmos. It is simultaneously one — the highest, ultimate, and all-encompassing — element of the totality *and* the totality as such. And as such, the infinite substance, which is the idea and spirit, cannot be opposed to any other substance. While most people, together with Aristotle, consider finite things independent enough to be called "substances," Spinoza and Hegel want us to understand that the finitude and utter dependence of such things render them accidents of one total substance.⁹⁷ When Hegel himself calls a finite reality, e.g., the State, "a substance," it is understood that the infinite takes a finite and, to that extent, accidental shape within it.

The Logic of the Grundlinien

Following these introductory remarks about Hegel's method and systematic purpose, and before analyzing the argumentation of his treatise on the philosophy of right, let us return to the question of the logic by which it is governed. In the only section of the *Grundlinien* where he explicitly focuses on his method (§ 31), Hegel refers us to his logic (as he also does at the end of § 2R); however, he does at least indicate that his scientific procedure consists in the "self-unfolding of the concept" (of the issue that is studied) or — in other words — is "an imminent progress and production of its determinations." The Remark attached to the section explains this definition of the method in terms of the logic of the concept, which is the third part of his logic in which the first

conclusion of Bourgeois's analysis on pp. 632-639.

⁹⁷ Enc A 99 and BC 151 ("Consequently, the substance is the totality of the accidents.") Cf. Enc C 114R ("The unique concept is the substantial in all things"); GrI 145 & Z, 156 & Z. Hegel's theory of substantiality is easily misunderstood. It is important to see that the substance and the accidents are reciprocally active, so that the substance is as much constituted by its accidents as the other way around. Cf. the clarifications of Franz Grégoire in *Etudes Hégéliennes: Les points capitaux du système* (Louvain: Publication Universitaires de Louvain, 1958), pp. 228-238, 300-305, 337-339, and *passim*.

two parts are sublated and brought to completion. Under the name of “dialectic” or “the higher dialectic of the concept,” Hegel explains that the concept of an issue at hand (which, at the beginning of a treatise, is a universal and abstract concept) is animated by a dynamic principle which prompts its unfolding into more specific determinations. Using organic metaphors, as he often does, Hegel calls this dynamic and dialectic principle the “soul” of the issue under consideration, comparing the unfolding of its universal concept into particular determinations to the development of the branches and fruits of a plant. His mention of the particularization (*Besonderung*) through which the universal (moment of the) concept determines itself is a *pars pro toto*. According to his logic of the concept, the complete formula for the self-determination of a concept is its particularization *and singularization*. A fully true and concrete concept encompasses the threefold structure of the (universal) *genus*, the various (particular) *species* in which it differentiates itself, and the (singular) *individua* in which its *being-there* (*Dasein*) is realized. Or, in Hegel’s own terminology, the concrete concept of a thing is the unity (and totality) of the universal, the particular, and the singular (moments) of that thing. In Grl 7R Hegel formulates this structure thus:

[T]he concrete and true (and all that is true, is concrete) is the universality that has the particular as its opposite, whose reflection into itself has reconciled it with the universal, however. This unity is the *singularity* [. . .]—not a representational, but a conceptual singularity (cf. Enc A 112-114). In other words, this singularity is properly nothing other than the very concept.

Against a widespread assumption of modern epistemology, Hegel stresses that the immanent unfolding and concretization of the concept into an actual idea is not restricted to a subjective view of the object under consideration. The dialectical unfolding is the *self-unfolding* and *self-determination* of the objective thing itself. It is not only a logical process in the mind of the observer, but the logic — or rather the onto-logic — of the object itself. Exaggerating somewhat to drive his point home to the reader, Hegel writes that the philosopher should merely watch how the thing itself achieves the entire process of its specification and singularization. What he wants to prevent is any form of subjective idealism,

according to which the human mind must impose its own "ideas" onto the things, which in themselves would be merely passive substrata without rational structure or content of their own.

With regard to the issue of the *Grundlinien*, Hegel briefly concludes that the concept of its subject matter, according to the logic of the concept he just summarized, must unfold its own active rationality or — as Hegel often says — its own reason (*Vernunft*) before the scholar's consciousness. The philosophical science of right gives an account of "the reason of the issue" (*die Vernunft der Sache*). The issue here is "the spirit in its freedom," which is "the highest summit of self-conscious reason." The philosopher must show how the spirit as free spirit — through its self-determination—"gives actuality to itself and generates itself as an existing world."

Hegel's remarks on his method in GrI 31R summarize the core of his logic of the concept, and therewith the entire logic, which is sublated in it. We could not surmise anything else if philosophy is comprehension in the form of conceptualization. To grasp the truth of something is to acquire and possess the analytic and synthetic totality of its conceptuality. We may therefore expect that the structure of the concept (or rather of the idea, as the empirically realized concept) must dominate the argumentation of the book that we want to understand. We will have to see how the freedom of spirit "dialectically" develops itself into a *world* of "right."

That the logic of the concept guides Hegel's treatise on right is confirmed by the passages, already indicated above, in which he explicitly refers to his logic. Of course, it does not exclude that the first two parts of his logic, in which subordinate categories and structures are developed, are also operative in the *Grundlinien*, but these must then be understood as integrated into the ideality of conceptual structures. In GrI 7 and 272R, Hegel explicitly refers the reader to the first part of his logic of the subjective concept as union of universality, particularity, and singularity, a union that is produced by a self-negating negativity (Enc A 112-114). GrI 302R refers to the logic of the syllogism, which is the third part of the logic of the subjective concept (Enc A 129-139). The logic of the judgment, the second part of the logic of the subjective concept (Enc A 115-128), is referred to in GrI 24R, 88, and 95, while several other sections invoke the doctrine of the necessary connection

between the concept, on the one hand, and the moments of the first two parts of the logic, on the other: *Dasein* and immediacy (Grl 33, 114R, and 280R); *Existenz* (Grl 81); actuality and reality (Grl 141R).

These examples merely illustrate how a few fragments of Hegel's logic are operative in his philosophy of right. In the course of our reading, we will notice the presence of other categories and structures, such as sameness and otherness, unity and difference, essence and appearance, substantiality, reciprocity, mechanism and teleology, syllogistic structures, etc. However, to a certain extent, the logic of the subjective concept (Enc A 112-139; BC 163-193), to which all the cited sections refer, summarizes the entire logic. The subjective concept contains *in nuce* the entirety of its unfolding into judgments and syllogisms, and this totality demands and generates its own objectivity in the formal patterns of the logic of the objective concept, as well as the union of itself (the subjective concept) with the objective concept (its own objectification) in the idea.⁹⁸ The logic of the idea sublates and encompasses the totality of all the logical distinctions, relations, and unions. In its formal (ontological) mode it is equivalent to the rational universe of which "right" is the (partial) realization in the form of a "free world." The study of this world inevitably confronts us therefore with the presence of the logical universe; but the prism through which the logic (this *logical* universe) appears, is that of a worldly, actualized — i.e., humanly justified, lived, socialized, politicized, and historicized — freedom. The question is then: which form does the logical totality (or the idea) take when it embodies or "en-worlds" itself in the legal, moral, familial, social, and political reality of human life?

⁹⁸ Cf. Enc A 129R: The *Schluß* (syllogism, closure, con-clusion) "is [. . .] the posited, [. . .] *real concept*. It is therefore the *essential ground of all that is true; and the definition of the absolute* is from now on that it is the *Schluß*; or — to express this determination in a sentence — everything is a con-clusion (*Alles ist ein Schluß*). Everything is concept, and its being-there is the distinction of its moments, so that its universal nature through particularity gives itself external reality and thus makes itself singular. Or, the other way around, the actual is something singular that lifts itself up through the particularity into universality. It is one thing, but also the divergence of the conceptual moments and the syllogistic circulation of the mediation of its moments, thanks to which it posits itself as one thing."

That the logic of the concept dominates the entire *Rechtsphilosophie* is already implied in the section (§ 7 & R) in which Hegel defines its core and substance: freedom as freedom of the will. The concept of free will is the *singularity* (*Einzelinheit*) that particularizes its abstractly universal concept in order to determine itself, thus forming a syllogically concrete concept whose form determines its content. At the same time §7 & R show that other logical categories are included and “con-cluded” in this concrete singularity: freedom is its *substance*, the limitation of the will’s abstract universality through self-particularization produces an immanent relation of *infinity* and *finitude*, the singular (or the true concept) is not a *substratum*, but the doubly *negative mediating* and circular movement of the singular will’s self-determining activity.

Plan and Procedure

Before we engage in a reconstruction of Hegel’s theory of “right,” I would like to emphasize one more characteristic feature of Hegel’s method in order to prevent misunderstandings and facilitate the reading.

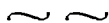
As stated above, “deduction,” for Hegel, aims at a *reconstruction* of the real empirical world, with all its good and bad, rational and irrational features, relations, structures, and movements, a world in which we find ourselves as participants even prior to our thinking about it. Thinking begins with the acceptance of this variegated universe that, as such, does not show its truth, although all truth is already contained in it. To manifest its hidden truth, Hegel does not begin with an analytic description of all the empirical elements with which we are already acquainted; he begins at the other end: starting with the first, abstract and generic, principle, he shows how this generates more specific and concrete principles, relations, structures, and constellations, and then slowly approaches the concrete wealth of the very same empirical universe with which he and we have been involved from the outset.

The difficulty of this method lies in the abstract character of all the conceptual stages that must be understood before the final stage, when the concrete reality appears as identical with the complicated (re)construction that was composed step by step throughout the entire movement from the first principle(s) to the final

result. However, a comparison with two non-philosophical methods may facilitate our ability to correctly appreciate Hegel's procedure. The first is the geometric method, which modern thinkers such as Hobbes, Descartes, Spinoza, and Leibniz considered exemplary, even for philosophy. This method aims at explaining spatial — and to a certain extent also temporal — phenomena by reconstructing them out of their most fundamental elements and a minimal set of rules that govern the connections between the elements. Here, too, the demonstration goes from the most abstract and *a priori* to the most concrete, which in this respect is *a posteriori*.

Another example is found in the "Alexandrian" method of theology, which begins with God's own triune life in order to then descend to human history in which God realized the salvific plan through election, incarnation, passion, etc. Such a method can be contrasted with an Antiochian style of theology, which begins with the historical manifestations in order to gradually ascend to the inner life of God.

Without denying the considerable differences between these examples and Hegel's procedure in the *Encyclopedia* and his *Grundlinien*, the latter can be compared to a new, philosophical version of Alexandrian theology and Euclidean *mathesis*. In any case, it is crucial that we understand his abstractions (i.e., all the concepts, propositions, structures, and constellations unfolded before the final stage) as "moments" or elements of the unique concrete reality from which they cannot be separated. Intermediary stages, such as abstract right, morality, self-consciousness, and the struggle that precedes the relations between master and servant, should be read, therefore, not as presentations of concrete situations or histories, but only as non-independent components, levels, or moments of the concrete reality.



Before reading the following chapters, the reader must be warned that he or she will be involved in the arduous task of close reading and exegesis. Hegel's texts are most often so dense that only the most intense concentration can disclose their secrets. Only the process of "spelling out" can overcome the multitude of inaccurate interpretations that claim to explain Hegel's oeuvre from a

distance or on the sole basis of some immediately obvious aspects. The reader who is not willing to struggle through a slow deciphering of the most abstruse passages, must choose between gaining a few "ideas" about Hegel or remaining in ignorance. However, the following exercises in close reading will be interrupted by passages in which the results are presented in a more synthetic form in order to slowly reconstruct a comprehensive understanding of Hegel's conception of "right."

CHAPTER TWO

SPIRIT

The soil of right is, in general, the spiritual, and its more precise place and point of departure is free will. Thus, freedom is the substance, the determination and destination (Bestimmung) of right, and the system of right is the realm of actualized freedom, the world of spirit as produced out of itself, as a second nature" (Grl 4).

The Context of Right (Grl 1-2 and 4)

The contextualization of right, laid out in the quote above, invites us to clarify the relations between *spirit* in general, *free will*, and *right* before we explain what right is and how it is realized in various dimensions and phenomena of concrete freedom.

The actualized concept of right, or the unity of its concept and the being-there (*Dasein*) in which it is realized, is the *idea* of right (Grl 1 & R). Philosophy is concerned with actuality (*Wirklichkeit*), not with concepts that hover over the world in which we live. Therefore, its object is the idea, i.e., the rationality of the real world, or the empirical reality insofar as it is the concretization of reason, and not some abstract representation or unrealized concept. However, in order to discover the idea of right, we must pass through its concept, which is its rational blueprint. This concept must be "deduced," i.e., its necessity must be comprehended on the basis of other concepts that have already been deduced or posited as necessary. Thus, the determination of the concept of right presupposes its deduction from the broader, more general concepts of freedom and spirit. The Remark on Grl 4 refers to this deduction, as provided in the *Encyclopedia* of 1817, while a partial summary of it is also given in sections 5-29. The latter concern the concept of *will* and the main elements of its

structure, corresponding to Enc A 388- 401, parallels of which are found in Enc B 469-483 and C 469-482. What Hegel does not reproduce in the *Grundlinien* is the chain of deductions that leads from *spirit* in general to the *will*. However, it is essential that at least the last part of this chain, the part immediately preceding the emergence of free will, be grasped in order to gain an accurate understanding of freedom and willing. In Enc A 307, Hegel refers to this last part as "the so-called psychology" (cf. also BC 378), but he prefers the title *Geist* (spirit), which here, in the third part of the philosophy of subjective spirit (Enc A 363-399), has a more restricted meaning than the one found in the introduction to the Philosophy of Spirit (Enc A 299-305). If it is true that "the deduction" of "*what* will and freedom is" "can only be given in connection with the whole" [of the philosophy of spirit] (GrI 4R), it is necessary to see how the will, as practical (subjective) spirit, at the same time differs from *and* is radically identical with theoretical (subjective) spirit, and how, together, they realize the spirit in its own dimension. To gain an overview of the constellation within which will and freedom emerge in the last part of Hegel's philosophy of subjective spirit, as delineated in 1817, the following schema may be helpful. (The absence of a section 306 is due either to Hegel's mistake in numbering his paragraphs or to a later elimination of § 306.)

Spirit (Enc A 299-399)

299-305: Introduction: definition (299-303) and division (304-305)

307-399: Subjective Spirit

307: Definition and division

308-328: A. *Soul* (immediate spirit; "the so-called anthropology," cf. 307)

329-362: B. *Consciousness* (spirit as relation or particularization; phenomenology of the spirit, cf. 307)

363-399: C. *Subject* (spirit for itself: "the so-called psychology," cf. 307 and BC 378) or *spirit* (title of 363-399)

363-367: Spirit in general

368-387:a) theoretical spirit (intelligence)

388-399:b) practical spirit (free will)

The first section of the philosophy of subjective spirit (A 307) identifies its topic as the spirit "insofar as it is in its concept." The concept that was defined in A 299-303 is here narrowed down to its abstractly conceptual, subjective, immediate, possible, and *formal* dimension.¹ According to A 304, the objective dimension of spirit is the *realization* and *objectification* of this subjective dimension; spirit is *absolute* insofar as it unites its abstract or formal dimension with the content of its objective realization and encompasses both sides in the freedom of its autarchy. These distinctions justify the division of Hegel's philosophy of spirit in three parts: subjective spirit (A 307-399), objective spirit (A 400-452), and absolute spirit (A 453-477).

Because spirit has the structure of the concept, it is the unity of three moments, as Hegel clarifies in Enc A 303: according to the logic of the concept,² the *singular* spirit is an encompassing *universal* that differentiates itself into its own *particular* determinations. This essential structure unfolds in each of the three dimensions above. In the subjective or formal dimension, which is analyzed in the philosophy of subjective spirit, the three moments of the spirit are revealed in the three dimensions of its formal possibility:

a) The abstract and immediate *universality* of the spirit is revealed in its "natural" form, i.e., in the *soul*, as immediately one with the human body (§§ 308-328).

b) *Consciousness*, in its relation to objects and to itself, reveals the inner *difference* of the spirit from itself; the spirit is particularized, divided, or "reflected" in itself, insofar as the opposition between subjectivity and objectivity determines its own inner life (§§ 329-362).

c) The spirit's *singularity* reveals in its very being the *subject* (or "spirit" in an emphatic sense) that unifies its inner determinations (b) by producing them as *particularizations* of its own encompassing *universality* (a) (§§ 363-399).

More concretely, in his philosophy of subjective spirit, Hegel retrieves the philosophical psychology of the eighteenth-century handbooks³ by dividing his treatise into three parts according to

¹ In other words, the spirit (as it is) "in itself" (*an sich*).

² Enc A 112-114 and parallels in the *Logic* and *Encyclopedia* BC 163-165.

³ Hegel's philosophy of subjective spirit can now be studied in greater detail than it could be twenty years ago thanks to several important publications.

three levels or phases: as *soul*, the spirit is the animation of the body; as *consciousness*, it relates to other realities and to itself; as *spirit*, in the full but still formal and subjective sense of the word, it is the human possibility of rational and intellectual activities. The great model for Hegel's theory of subjective (or formal) spirit is Aristotle's treatise *On the Soul*, but he also borrows from the eighteenth century analyses of the faculties that are constitutive of the "rational animal."⁴

Even a superficial reading of Hegel's philosophy of subjective spirit suffices to see that it is a theory of the characteristic possibilities of *human* life. But does the restriction of the concept of spirit to that of *human* spirit follow from the deduction that led to its discovery? We have already seen that the spirit is the return of the idea through nature to itself. If the idea encompasses the totality of (onto)logical forms and therefore can be metaphorically equated with "God as he is in his eternal essence, before the creation of nature and finite spirit,"⁵ and if nature encompasses the entire material and vital universe, the spirit that results from the unity of idea and nature must also be total and universal in the absolute sense of the word. The ultimate truth of the spirit must lie in "God" as the concrete or materially actualized idea, i.e., as revealed in the universe (or "the creation") of material and spiritual realities, but in its human realizations the spirit is still finite. As the fully concrete idea, the spirit (or "God") cannot simply coincide with the spirit or soul or mind that animates

Michael J. Petry edited, translated, and annotated the text of the *Encyclopädie* of 1830 along with large parts of Hegel's courses on the same subject in *Hegel's Philosophy of Subjective Spirit* (three volumes, Boston: Reidel, 1987); Franz Hespe and Burkhard Tuschling edited and annotated the notes of Hegel's winter course of 1827-28, taken by Johann Eduard Erdmann and Ferdinand Walter, in *Vorlesungen über die Philosophie des Geistes* (Vorl., vol. 13). The notes of both publications and Petry's long introduction to his edition (pp. ix-cxliii) provide the reader with an idea of the psychological literature to which Hegel refers or which he may have read. Among the secondary literature, see especially *Eley*, *Subj. Geist* and the very complete and thorough study of the philosophy of subjective spirit (as Hegel presents it in the *Encyclopedia*) by Rosella Bonito Oliva, *La "magia dello spirito" e il "gioco del concetto"* (Milano: Guerini, 1995).

⁴ Cf. Hegel's judgment on the psychologies of his time and his recommendation of Aristotle in Enc BC 378; cf. also the exemplary studies on Hegel's retrieval of Aristotle's *On the Soul* by Walter Kern, quoted in notes 11 and 12 of Chapter One.

⁵ GW 11, p. 21.

human individuals, communities, and history. Even if the spirit ultimately coincides with the totality of all beings, it cannot be simply another name for humanity, because it is the (“creative”) origin of the natural and human universe, which is made possible by its self-actualization. The spirit cannot coincide with its human concretization *unless both the totality of all (onto)logical determinations and the emergence of nature and finite spirit are human possibilities*. If, on the contrary, Hegel’s theory of subjective spirit must be understood as the subjective and formal — and in that sense only finite — aspect of the *infinite* spirit (cf. A 305R), the explicit *human* properties of the spirit, to which its deduction in Enc A 299-399 refers, remain enigmatic. Is it possible that Hegel wants to suggest — indirectly or implicitly — that the subjective, free, and noetic side of God is nothing other than the humanness of humanity? How would this square with his theory of creation and his explicit statements about the difference between the Absolute itself and humanity?⁶

The last sentence of Enc A 307 provides an outline of the entire treatise on subjective spirit:

In the *soul* [the topic of anthropology], *consciousness* [the topic of phenomenology] *awakens* consciousness *posits itself as reason* [the topic of psychology]; and subjective reason frees itself, through its activity, [by passing] into objectivity [the topic of the philosophy of objective spirit].

From this outline and from Gr1 4, quoted above, it follows that *reason* in particular and *spirit* in its restricted sense as object of the psychology must be comprehended before we can understand Hegel’s explanation of right — although the corporeal (or anthropological) and (self-)conscious (or phenomenological) aspects of all spirituality should always be kept in mind. The above outline also contains a warning: if we want to comprehend spirit, we should not stop at the *phenomenology*, but transcend it while at the same time preserving it, through the study of *psychology*. To be human is not reducible to being conscious and self-conscious; spirit and mind (or consciousness) are not equivalent.

⁶ Enc A 305R (BC 386R), A 465-470 (BC 565-570); cf. *Selbsterkenntnis*, pp. 93-109.

The Absolute is the Spirit; this is the highest definition of the Absolute. To find this definition and to comprehend its content was certainly the absolute tendency of all civilization (*Bildung*) and philosophy; all religion and science have strived toward this point; only on the basis of this definition can one comprehend world history.

The essence of the *spirit* is the *concept*, however. The word and the *representation* of the spirit were discovered early, and it is the content of the Christian religion to reveal God as spirit. In it, this was *given* to representation, and it is the task of philosophy to grasp that which *in itself* is the essence in its own element, the concept. This task is not achieved truly and immanently as long as the concept and freedom are not the issue and the soul of philosophy (Enc A 302R).⁷

⁷ The first sentence of this passage must be understood in light of Hegel's often repeated affirmation that "the logical determinations can be seen as definitions of the absolute, as *the metaphysical definitions of God*; or, more precisely, as always only the first, simple determination of a dimension, and then as the third, which is the return from the difference to the simple relation-to-itself" (Enc C 85). By thus explaining the metaphysical status of the key logical concepts, Hegel implicitly justifies statements like the following: "The truly *first definition* of the absolute is [...] *pure being*" and "*God is the being in all being-there*" (Enc A 39R); "from this [scil., Enc A 40] follows the second definition of the absolute, [namely,] that it is *nothing*" (Enc A 40R); "the absolute is the *essence*" (Enc A 64R); "*the absolute is the identical-with-itself*" (Enc C 115, cf. Enc A 66R); "The *Schluß* (syllogism, closure, con-clusion) [...] is [...] the *posited* [...] *real concept*. It is, therefore, the *essential ground of all that is true*; and the *definition of the absolute* is from now on that it is the *Schluß*, or — when we pronounce this determination in the form of a sentence: *all things (Alles) are con-clusions*" (*Alles ist ein Schluß*, Enc A 129R); "The absolute is the object" (§ 140R); "The idea is the true *in and for itself*, the *absolute unity of the concept and the objectivity* [...] The definition of the absolute, [namely,] that it is the *idea*, is now absolute itself" (Enc A 161 & R). We may go on and state that the absolute (or "God") is becoming, substance, subject, concept, etc. Hegel's logic (i.e., his general ontology or formal metaphysics) unfolds the totality of all categories as *formal determinations of the absolute, which is the one Spirit or "God."* With regard to the meaning of "the absolute" in Hegel, see A. Doz, "Le sens du mot 'absolu' chez Hegel," and J.-F. Marquet, "Singularité et absolu dans la philosophie de Hegel," in *Revue des Sciences Philosophiques et Théologiques* 80 (1996): 5-11 and 45-57, and—in a different vein—John Burbidge, "Hegel's Absolutes," in *The Owl of Minerva* 29, 1 (1997-98): 23-27. With regard to the semantic history of "*Geist*," H. Günther offers in *Revue des Sciences Philosophiques et Théologiques* 80 (1996): 58-70 an overview of the long article by Rudolf Hildebrand in the *Deutsches Wörterbuch* of the Brothers Grimm (1873). See also the article "Absolut, das Absolute," by R. Kühlen in *Hist. Wörterbuch*, vol. 1, col. 12-31.

If "the soil" (*Boden*) from which right emerges is "the spiritual," and "the system of right" is "the world of the spirit produced from the spirit itself" (Grl 4), a thorough examination of Hegel's uses of the word "spirit" is required before we can understand right. In the Remark on § 4, Hegel refers to the basic principles of his doctrine of subjective spirit, as explained in §§ 363-399 of the *Encyclopedia* of 1817. The doctrine of right is presented in that work under the title "Objective Spirit" (§§ 400-452). As the second part of the philosophy of spirit, located between subjective and absolute spirit, this title indicates the place and function of right more clearly than does the title *Grundlinien der Philosophie des Rechts*.⁸ We must therefore pay attention to the synonymy of Hegel's "right" and the objectivity of his "spirit." First, however, we must study his "psychology" (Enc A 363-399), to which Grl 4R explicitly refers.

The introductory sections (Enc A 299-300) of Hegel's philosophy of subjective spirit (§§ 299-300), of which the psychology (§§ 363-399) is the final part, provide a general definition of subjective spirit.⁹ However, because right is grounded in spirit through the concept of *freedom*, we must also show how spirit specifies itself in *reason*, *intelligence*, and *free will*. This requires a

⁸ The expression "objective spirit," which first appears in Enc A 400, is also used in the winter course of 1817-18 (Wa 6, § 2R) and in Enc BC 385, B 481 ff., and C 482 ff. In the *Grundlinien*, the expression is found only in § 57R (toward the end: "the objective spirit, [i.e.,] the content of right") and in § 71R, where the contract is called "a relation of objective spirit." The concept of objective spirit is also suggested in § 157: that the idea of *Sittlichkeit* "exists as spirit — [i.e.,] as knowing and actual — is due to its own objectification. . . .," namely, as family, civil society, and state. In § 187R, the spirit "has actuality" by giving "objective *Dasein*" to itself, and § 28 as well as § 187R mention the objectivity of the will. For the interpretation of "objectivity," see also § 270R (p. 222): "The state is [a? the?] divine will as present spirit that *unfolds* itself into the actual shape and *organization of a world*" ("Der Staat ist göttlicher Wille, als gegenwärtiger, sich zur wirklichen Gestalt und *Organisation einer Welt entfaltender Geist*").

⁹ The second and third editions of the *Encyclopedia* (BC 387) adopt the title "Psychology" for the *third part* of the philosophy of subjective spirit. In the first edition (1817), this part is entitled "The Spirit," which, in A 307, is equated with "the-spirit-for-itself" or "the spirit as subject" or "the elsewhere so-called *psychology*." In BC 387, "The Spirit" has become the subtitle to "Psychology," but the entire philosophy of subjective spirit in its most general form, encompassing all its parts (B 377-481; C 377-482), is called "pneumatology" or "the so-called rational psychology" (BC 378). To avoid confusion, I will consistently use "psychology" as the name for the third part of Hegel's philosophy of subjective spirit (Enc A 363-399, B 440-481, and C 440-482).

clarification of that part of the doctrine of *subjective spirit* in which those concepts are determined.

Before we can understand what the rational, intelligent, and free spirit is, we must have in hand at least a provisional overview of the whole of Hegel's system, because the truth (of every thing or event) is only (in) the whole, as he never ceases to remind us. To see the systematic place of the key concepts presupposed by the concept of "right," the following schema of the *Encyclopedia* of 1817 will be useful. I have included only what is needed for identifying the framework and locating the key concepts that are presupposed in the *Grundlinien*.

Schema of the Encyclopedia

Introduction (§§ 1-11)

A. *Logic* (§§ 12-191)

1. Being (§§ 39-63)
2. Essence (§§ 64-108)
 - a. Reflexive determinations (§§ 66-74)
 - b. Appearance (§§ 75-90)
 - 1) Existence (§§ 75-80)
 - 2) Appearance (§§ 81-83)
 - 3) Relation (§§ 84-90)
 - c. Actuality (§§ 91-108)
3. Concept (§§ 109-191)
 - a. Subjective concept (§§ 112-139)
 - 1) Concept as such (§§ 112-114)
 - 2) Judgment (§§ 115-128)
 - 3) Conclusion (§§ 129-139)
 - b. Object (§§ 140-160)
 - c. Idea (§§ 161-191)
 - 1) Life (§§ 164-168)
 - 2) Knowing (§§ 169-182)
 - 3) Absolute idea (§§ 183-191)

B. *Philosophy of Nature* (§§ 192-298)

1. Mathematics (§§ 197-203)
 - a. Space (§§ 198-199)
 - b. Time (§§ 200-202)
 - c. Matter (§§ 203)

2. Inorganic physics (§§ 204-259)
3. Organic physics (§§ 260-298)
 - a. Earth (§§ 261-265)
 - b. Plants (§§ 266-272)
 - c. Animals (§§ 273-298)
- C. *Philosophy of Spirit* (§§ 299-477)
 - Introduction (§§ 299-305)
 1. Subjective spirit (§§ 307-399)
 - a. Soul (§§ 300-328)
 - b. Consciousness (§§ 329-362)
 - c. Spirit (§§ 363-399)
 - 1) Theoretical spirit (§§ 368-387): intelligence
 - 2) Practical spirit (§§ 388-394): free will
 - 3) Happiness (§§ 395-399)
 2. Objective spirit (§§ 400-452) (in GrI: "Right")
 - a. Right (in GrI: "Abstract Right") (§§ 402-415)
 - b. Morality (§§ 416-429)
 - c. Sittlichkeit (§§ 430-452)
 3. Absolute spirit (§§ 453-477)
 - a. Religion of art (§§ 456-464)
 - b. Revealed religion (§§ 465-471)
 - c. Philosophy (§§ 472-477)

The three parts of Hegel's philosophy, i.e., the logic, the philosophy of nature, and the philosophy of spirit, illuminate the universe from three different perspectives and thus reveal three different dimensions of one and the same reality, which may be called the all (*to pan*), the whole (*das Ganze*), the totality, or the universe of beings (*ta onta*).

As we have already seen, the *logic* analyzes the formal structure of the universe along with the formal pattern of thought, which comprehends that basic universal structure. According to the axiom that governs the entire system, *true thought and actual reality are identical*. The *logical* universe is the totality of categories, which are, at the same time, the formal determinations of the ontic universe of beings and their relations to one another. The encompassing unity and summary of this onto-logical totality is the *idea*.

The philosophy of *nature* shows that the empirical dimension of the universe is a shadowy expression of the onto-logical structure

unfolded in the logic. "Nature" (or the universe insofar as it is a spatio-temporal realm of material, inorganic, and organic elements, beings, processes, and constellations) realizes this basic structure inadequately and obscurely, almost to the point of caricature: the strongly unified (onto)logical paradigm is expressed in nature in the form of dispersion; the idea (or the totality of ontological determinations) is externalized in the dimension of material phenomena. Though deeply hidden, the idea is still operative in this exteriority, but its expression is inadequate. It seems to have fallen apart in the phenomena of nature. However, some natural phenomena express the structure of the idea better than others; for example, plants, and animals even more so, express the idea's formal pattern much more adequately than crystals or chemical compounds.

Adequate expressions of the idea can only be found in the realm of the *spirit*. Reason, freedom, the state, art, religion, and knowledge demonstrate that the formal determinations of logic (encompassed and summarized in the idea) *can* be realized adequately. The idea — or "the logical," as Hegel also calls it¹⁰ — finds its full and appropriate concretization in the spirit.

The philosophy of spirit shows how the onto-noëtical structure of the universe, as displayed in the logic, concretizes itself as a spiritual universe. The logical pattern and the material exteriority of the spirit are constitutive *moments* of the only existing reality: the spatio-temporal, natural, cultural, and historical self-actualization of the spirit. The encyclopedic disclosure of the truth of the existing universe leads to the insight that the spirit is itself "absolutely first" and not a product of anything else (Enc BC 381). The spirit (or the spiritual) is thus not merely one dimension of the universe among others; it encompasses the idea (the ontological dimension) and nature (the material dimension) as two moments of its own constitution. The logic exhibits the formal structure of the spirit's thought, which is also the structure of universal being; the philosophy of nature shows how that thought (i.e., true being) is realized in the spatio-temporal or natural

¹⁰ Cf. Enc A 474-476 and BC 574-577. See my interpretation of "*das Logische*" and of the way in which the various parts of the Encyclopedic system realize it in *Selbsterkenntnis*, pp. 152-157.

aspects of all natural and spiritual phenomena; the philosophy of spirit concentrates on spiritual phenomena, insofar as they are spiritual, and arrives at the conclusion that "universe" and "spirit" are in the end two names for the same reality. The secret of the whole (*to pan*, or the totality of *ta onta*) is revealed when we understand it as the self-unfolding totality of the one and only universal spirit.¹¹

"The idea" is a logical, and thus provisional name for "the spirit"; it represents the spirit on the level of its basic formal determinacy. "Nature" is spirit's own exterior, in which the spirit expresses itself in order to possess and spiritualize nature as its

¹¹ In his contribution "Hegel, Freedom, The Will: *The Philosophy of Right* (§§ 1-33)" (in *Siep, Grundl*, pp. 31-54), Robert Pippin contrasts Hegel's conception of spirit with what Pippin considers to be "traditional rationalist or monistic" conceptions according to which "the infinitely inexhaustible diversity of the world was a mere illusion, to be seen through and understood as a manifestation of some real world beyond this one, or of some *Ur-eine* source" (p. 32). Unfortunately, Pippin does not compare Hegel with the not-so-ludicrous idealism of the Neoplatonic tradition to which Hegel was heavily indebted, as is documented in his courses on Greek philosophy. Pippin's Kantian or quasi-Kantian viewpoint makes it impossible to explain Hegel's statement that the spirit is not only "the *absolute first*" (cf. p. 42, n. 14) and "*absolute*" (i.e., double, not simple) *negativity*, but also its *return* (*Zurückkommen*) out of nature," in which "the spirit has the exteriorization of itself" (Enc C 381, emphasis added, cf. Enc A 299). The Neoplatonic background of the *exitus* and *reditus* of the One makes it much easier to understand Hegel's ontological transformation than an epistemological reading according to which Hegel, in the quoted passage, claims "that the categories of nature are normative principles and laws that must be ultimately understood as the self-limitations of mind itself, as *a priori* constraints" (p. 42, n. 14). Part of Pippin's strategy is to translate *Geist* as "mind," which blurs the distinction between *Geist* and *Bewußtsein* (consciousness or mind) and between "spiritual" and "mental." Hegel's refutation of a non-ontological epistemology is implied in his interpretation of Aristotle's insight that "*actual*" knowledge is identical with "*actual*" being, as I have explained in Chapter One. "This book presents philosophy as the science of *reason*, to wit, insofar as reason is conscious of itself as *all being*" (Enc A 5).

A very different, and excellent, characterization of Hegel's spirit, in contrast and akin to Kant's philosophy, is given by Nathan Rotenstreich in "On spirit – an interpretation of Hegel" in *Hegel-Studien* 15 (1980): 199-240. On the basis of central concepts of Hegel's explicit and implicit logic, Rotenstreich stresses the Aristotelian and Kantian elements in Hegel's conception, but stresses that the typically Hegelian concept of the spirit's "transcendence" is "a transcendence which appears within the boundaries of immanence. It thus ceases to be transcendent, or, from the reverse perspective, the distinction between transcendence and immanence becomes sublated in the totality, which is both substantive and imbued with awareness. For Hegel that totality is spirit. Spirit thinks in ourselves. . . ."

own body and world. "Spirit" in its most proper and absolute sense is the spirit as fully possessing and comprehending the universe into which it unfolds itself. The *Encyclopedia* is thus the progressive revelation of the spirit's dynamic self-constitution through incarnation and spiritualization of its universal body.

The summary of Hegel's system that is provided here is supported by textual analyses that have been presented elsewhere.¹² The interpretation is not meant to impose constraints on the discussion, but indicates the perspectives from which this book approaches Hegel's philosophy of objective spirit.

The Abstract Concept of Spirit (Enc A 299-305)

A close reading of the sections of the *Encyclopedia* of 1817 in which Hegel introduces the reader to the philosophy of spirit (A 299-305) is an arduous task, not only because they presuppose familiarity with Hegel's logic, especially its third part, but also because they belong to the densest of his oeuvre and do not excel in didactic clarity. The reader who wishes to decipher Hegel's rather abstruse terminology will need courage, but the endeavor will be rewarded with an insight into his overall framework.

Continuing the tradition of the eighteenth century handbooks in his own dialectical way, Hegel begins each part of his system with a definition and a division.¹³ He first determines, in a very

¹² See "'Ken u zelf!' of 'Wat is filosofie van de geest?'" Een uitleg van § 377 van G.W.F. Hegels *Enzyklopädie der philosophischen Wissenschaften* (1830)," in *Tijdschrift voor Filosofie* 42 (1980): 720-770; "Hegels definitie van de geest," in *Tijdschrift voor Filosofie* 43 (1981): 235-268; and *Selbsterkenntnis*.

¹³ Hegel retrieves the classical conception of "definition" in his *Logic*, GW 12, pp. 210-214 and explains the nature of the "division" (*Einteilung*) in pp. 215-220. He does not particularly like the term "definition," but prefers "*Bestimmung*" (determination), "*Begriff*" (concept), "*abstrakter Begriff*" (abstract concept), or the "in itself" (*An sich*); however, he uses "definition" without hesitation in the most important statements, as we saw above in note 7. The reason for the reservation mentioned above is that he does not want his speculative thinking to be misunderstood as the "intellectual" (*verständige*) mode of thought that prevailed in the old metaphysics. For the same reason, he prefers *Schluß* (conclusion or syllogism) over *Beweis* (demonstratio, cf. "the so-called *Beweis*," GrI 2R and 4R). However, Hegel continues the custom of commencing a treatise with a "definition" and a *divisio* (*Einteilung*) of the issue at hand (e.g., GrI 3R, 4R, and 33). In general, his logic is difficult to understand without familiarity with Aristotelian and standard eighteenth-century logic and *ontologia generatis*.

formal and abstract way, the concept of that which is to be treated and then analyzes its moments, showing that they form a specific constellation, which must be unfolded in several directions. In the introduction to the philosophy of spirit, the “definition” is given in §§ 299-303 and the division in §§ 304-305.

The first abstract determination of the concept of spirit contrasts it with (and thus also relates it to) the topic which has been treated up to this point: nature.

The spirit has *for us nature* as its *presupposition*, of which it is the *truth*. In this truth, [i.e., in] the concept of spirit, nature has disappeared and the spirit has emerged as the idea whose *object* as much as the *subject* is the *concept*. This identity is *absolute negativity*, because [1] the concept has its complete exterior objectivity in nature, [2] this exteriorization of the concept has been sublated, and [3] the concept has become identical with itself in this exteriorization. The spirit is therefore this identity only as a return from nature (Enc A 299).

The text of § 299 is construed as a portrayal of the relation between the two poles *spirit* and *nature*. The exhibited structure can be summarized in the following statements:

- The *spirit* has *nature* as its presupposition (*Voraussetzung*).
- The *spirit* is the truth of *nature*.
- *Nature* has disappeared (as sublated, not abolished) in its truth, i.e., in (the concept of) spirit.
- *Spirit* is the *idea* insofar as the concept of the idea has realized itself in both the objective moment of the idea (*nature*) and its subjective moment (the concept of spirit).
- This identity of object and subject is absolute negativity.
- *Nature* is the exterior objectivity of the concept (of the idea).
- The concept of the idea has realized itself as (concretely) identical with itself.
- The *spirit* is this identity (of subject and object) insofar as it is the return to itself from *nature*.

All of these statements are spoken from the perspective of “us”: “for us” (“*für uns*”) the spirit has nature as its presupposition. “We” are here the writer or the readers of the *Encyclopedia*. Having begun with the logic and having worked through the philosophy of nature, which culminated in animal life, “we” have seen not only how nature, in the end, destroys itself through sickness (§§ 296-

297), but also how the animal's death, as the expression and effect of the *contradiction* between its living singularity and the generic or universal life of the species, is the liberation of spirit. By being able to endure corporeal mortality, the spirit achieves the *union of the universal and the singular in one actuality*: the human mode of life. As a singularity that contains universality in itself — and is not, like an animal, sacrificed to the survival of the universal species — the human spirit realizes the structure of the concept; unlike nature's dispersion in exteriority, the spirit embraces all differentiations and singularities as moments of its own internal self-unfolding. This contrast is clarified in § 299, where Hegel introduces the concept of spirit as a result of the preceding development. The philosophy of nature (§§ 192-298) has shown how the encompassing unity of the idea (i.e., the spirit in its logical form) falls apart into spatial and temporal externality, but then through mechanical, chemical, and organic formations, produces phenomena that are more adequate expressions of the idea; for this reason, it is understandable that Hegel here relates the contrast between nature and spirit to the idea (which is the logical or formal form of the spirit).

"For us," who have followed Hegel's progressive reconstruction of the material reality from its lowest (i.e., most external and dispersed) to its highest (i.e., most unified and encompassing) level, nature is a presupposition of spirit. This does not mean, however, that Hegel defends a materialistic theory according to which spirit would be generated by chemical or biological processes. As § 302 makes clear, the presupposition (*Voraussetzung*) of nature is in fact a positing (*Setzen*) for which the spirit is responsible. The same section states that, according to true comprehension, the spirit "creates" (*erschafft*) nature as its own being. In the later editions of the *Encyclopedia* (BC 381), Hegel prevents all misunderstanding by adding that the spirit, as the "truth" of nature, is absolutely prior to nature (*deren absolut Erstes er ist*). That the spirit is the truth of nature means that the realization of the idea (which encompasses all rationality in its most formal and fundamental mode) is *inadequate* and therefore *obscure* insofar as it remains confined to *natural* phenomena, while its adequate actualization is found in spirit only. Spirit causes and reveals what nature can only realize deficiently. The formal (onto-logical)

structure of the universe does not find an appropriate ontic realization unless it is expressed in spiritual phenomena.

The concept of spirit (i.e., its formal determination as it is defined here) is the truth that is "sought." It is not appropriately revealed in natural phenomena, but only in the totality of spiritual phenomena. There the idea finds its fully adequate realization, because in spiritual phenomena the concept (i.e., the formal essence) of the idea realizes itself as the unity of its subjective and its objective elements. The identity of the all-encompassing thought (i.e., the actualization of the subjective concept of the idea) and the all-encompassing reality (the actualization of the objective concept of the idea) — an identity that is the actualization of *the absolute idea* — is the actuality of the spirit. The idea is the actualized concept (of the absolute idea) as *the identity of subjectivity (thought) and objectivity*.

The objectivity that has come to the fore at this point is the material and vital reality of nature; we have not yet reached the objectivity of spiritual phenomena as such, because these can only be treated within the philosophy of spirit, which remains to be unfolded. However, the philosophy of nature supports the thesis that the spirit encompasses the entire objectification of the idea, because the idea encompasses *all* thoughts and true realities, while nature encompasses only the dimension of exteriority. Nature mirrors the idea inadequately and obscurely, but remains the complete form of its exterior dispersion. The philosophy of nature must prove nature's completeness by showing that no higher materialization of the idea is possible than the realm of animality. If the demonstration succeeds, the logic and the philosophy of nature together have manifested both the subjective and the objective sides of the idea. Further objectifications of the idea are then only possible as spiritual productions. The abstract concept of spirit, which is the result of the prior philosophical development, is already the identity of the idea and its natural realizations, but this identity remains abstract if we do not proceed beyond this stage of the conceptual development.

Hegel summarizes the relationship between spirit and nature by characterizing the structure of spirit as both the "*identity*" of subjectivity and objectivity, and "*absolute negativity*." The latter characteristic determines the meaning of "*identity*" by pointing

out that it has the circular structure of a double negation. The original (logical or merely "ideal") identity is negated when spirit becomes exterior to itself in nature. However, spirit also realizes its original ("ideal") identity in nature, which is thereby revealed to be the spirit's own materially concrete identity with itself. Spirit is the idea of "having become identical with itself" through the mediation of nature. By "returning from nature" to itself, the idea (i.e., the logical form of the spirit) has become (actual) spirit.

The structure of absolute negativity is explained in the dependent clause of the penultimate sentence of § 299. As the realized concept of the idea, spirit is the result of the following phases:

1. The concept of the idea, and thus of the spirit, which, as "absolutely first" (BC 381), exists while remaining incognito on the levels of the logic (or the idea) and the philosophy of nature, is externalized and displayed in nature (inadequately but completely, insofar as this inadequate, natural dimension permits completion).

2. The philosophy of nature culminates in the death of singular animals: nature must die to let spirit emerge.

3. The exhaustive, though inadequate, realization of the idea in nature has been comprehended as complete externalization and thus as the objective existence of the (concept of the) idea. There-with spirit has discovered itself as the hidden truth of nature: it is the (spirit as) idea that lets nature emerge, live, and die in order to grasp itself as the truth that governs and transcends the inadequacy of nature in order to actualize itself in properly spiritual phenomena. The spirit, traversing incognito through the various levels and phenomena of natural "generation and corruption," returns to itself by realizing itself in human corporeality, consciousness and reason, ethics and politics, art, religion, and philosophy. All these phenomena together comprise the full actualization of the idea, which is the summary of the spirit's logical dimension. The expression "absolute negativity" indicates the self-negation through which the (spirit as) idea loses itself in the dispersion of nature, and from which it emancipates itself by transcending nature's highest phenomenon, the animal. By negating its negation, spirit realizes and manifests its *precedence* and *transcendence* with regard to nature.

The thought that nature must die in order to give birth to spirit, along with other dualistic expressions, reminds us of the Orphic

device meditated upon in Plato's *Phaedr.* the *psychē* must welcome death as liberation from the *ōma*. The impression that Hegel maintains a "platonian" dualism is reinforced in § 300, where he states that the spirit can support the negation of its own individual immediacy. However, the following sections (§§ 301-305) stress the unbreakable unity of the spirit with its material and worldly manifestation. How that negation and this unity can coexist will become clearer when we study Hegel's analysis of freedom in the next chapter.

Sections 299-300 are written from the unilateral perspective of the contrast between a new phenomenon and the phenomena analyzed previously. The non-naturalness of the spirit and the negativity of its relationship to nature are stressed as a first moment, because, at this stage of the conceptual progression, nature is not yet integrated or reintegrated into the life of spirit (as it will be, progressively, in the anthropology, the philosophy of right, and the philosophy of art). Nature has "disappeared." Spirit is different from nature, but from § 300 on, Hegel emphasizes that it also requires a specific, namely, a *free*, union with the natural elements that appear to be left behind in § 299.

In § 300, Hegel analyzes the element of the spirit's non- or supra-naturalness as a form of independence. The spirit is *free from* all externality (i.e., from all that is natural); as the negation of nature, it is nothing other than itself, having "being in itself" and selfhood. This moment of freedom is, however, only one of the spirit's components. The spirit expresses its freedom as the capacity for abstracting from all forms of immediately given, natural, and external reality, not only through theoretical abstraction, but also in the practical and painful sense of taking a distance from its own individual givenness in bodies, material property, and empirical power. Even the corporeal death of human individuals cannot destroy spirit; the spirit possesses itself as the non-material element of concrete freedom.

In his explanation of the spirit's immaterial element, Hegel insists on its absolute primacy (Enc BC 381). He repeats his explanation at key points in his system, notably his analysis of free will. But here, in § 300, he sketches the paradigm for the entire philosophy of subjective, objective, and absolute spirit and all the phenomena treated within it. A materialistic interpretation of his

work is, therefore, out of the question, even with respect to his philosophy of nature, because nature can only be understood as a materialization that originates out of and is ruled by the idea, i.e., the logical core of the subject.

At the same time, however, Hegel never ceases to warn his readers against absolutizing abstract and negative freedom, which is only one element of true spiritual freedom. In Enc A 300, he does this in Aristotelian terms: as abstractly free from nature, spirit is only a possibility (*Möglichkeit*), not an actuality (*Wirklichkeit*). Hegel here borrows from Aristotle and the Scholastics their opposition between *dynamis* (*potentia*) and *energeia* (*actus* or *actualitas*). In place of possibility, he sometimes also uses the Kantian term *Ansichsein* to indicate an abstraction that is not yet integrated into the actual phenomenon of which it is only a formal pattern. Negative freedom (from . . .) is only a potentiality of “real” or “actual” spirituality. To be actual, spirit requires something *for* which it can be free; more than negativity, its freedom is affirmation, positing, production, creation, and, above all, self-affirmation, as is made clear in § 301.¹⁴

Enc A 300:

The *essence* of spirit is [. . .] *freedom*, the identity of the absolute negativity of the concept with itself. It *can* abstract from all that is exterior and from its own exteriority, from its *being*; it can tolerate the negation of its own individual immediacy, the infinite *pain*; i.e., it can be identical for itself in this negativity. This possibility is its selfish *being-in-itself* (*selbstisches Ansichsein*), its simple concept or absolute universality itself.

A 301:

This universality is also its *being-there* (*Dasein*), however. The concept is the universal, as *particularizing* itself, and, in this determinacy, identity with itself; the nature of spirit is therefore *manifestation*. It is not a determinacy *in itself* against its exteriority; therefore it does not reveal *something*; rather its determinacy and content is this revealing itself. Its possibility is, therefore, immediately infinite, absolute *actuality*.

Because, according to § 300, spirit (as opposed to nature) is not essentially dependent on or attached to anything else (the idea is

¹⁴ For further examination of negative freedom, see the interpretation of GrI 5-7 in Chapter Three.

its core), it is an infinite possibility of being or becoming anything. Applying Aristotle's characterization of the *psychē* as "somehow [nl. *dynamei*] all things (*pōs panta*)"¹⁵ to the spirit, Hegel concludes that the infinite possibility of spirit's freedom is absolutely universal, or rather "the absolute universality itself." The spirit is as universal as the universe; it is the unlimited and infinite possibility of the encompassing actuality of the whole.

Section 301 reminds us, however, that the possibility of the spirit cannot remain a mere possibility. Hegel's (onto)logic unfolds the postulate that the idea (spirit), as *causa sui*, is the active process of its self-realization according to the structure of the concept. The spirit's *universality* is not a separate or abstract universality above or prior to the actual and determinate realities in which it manifests itself. Having the structure of the concept, the spirit's *universality* necessarily determines *itself* by differentiating its possibility in *particular* actualizations. It does not lose its *identity with itself* by determining or particularizing its universal possibility, but manifests the various possibilities contained in it.

This process of ongoing self-differentiation is the spirit's revelation. By here emphasizing the religious category "revelation" (*Offenbarung*), Hegel anticipates his interpretation of the relationship between religion and philosophy, in order to stress that the spirit is not distinct from its self-manifestation. The particular phenomena in which the spirit appears are not sent by something (*Etwas*) — some god or Absolute that hides behind, above, before or underneath them; the spirit *is* (that which remains identical with itself *in* and *as*) the totality of its manifestations. Or put another way, the spirit is not only the totality of the appearances in which it is revealed, it *is* the very actuality of the revealing that produces those appearances.

The spirit's possibility, which is only its first, abstract, and abstractly universal moment, cannot be isolated as an independent reality or some absolute separated from nature or the world. It is "immediately" — according to the spirit's "nature" or essence — the actuality (*Wirklichkeit*) of its actualization and revelation in all its possible manifestations.

¹⁵ Aristotle, *On the Soul* III, 8 (431b21-22).

Enc A 302:

Revealing is positing the objectivity of the spirit, which positing, in the *abstract* idea, as immediate transition, is the *becoming* of nature. But as revelation of the spirit that is *free*, revealing is the *positing* of nature as *its* [own] world, a positing that, as reflection, simultaneously is a *presupposing* of the world as independent nature. But the true revealing, revealing in the concept, is the creating of that [world as independent nature] as the spirit's being, in which it has the *positivity* and *truth* of its freedom.

This section explains the spirit's active *self-actualization*, which § 301 had characterized as revelation, from the three perspectives that correspond to the three divisions of Hegel's logic: (1) The logic of being or immediacy, (2) the logic of essence or reflection, and (3) the logic of the concept. Only the third perspective, which encompasses the first two, enables us to comprehend the full truth of the spirit's actuality, but it presupposes the analysis of elements viewed from the other perspectives.

The *first* perspective is a looking back to the spirit's revelation that was explained in the transition from the logic to the philosophy of nature: as idea, in its still merely logical form, the spirit objectifies and manifests itself by becoming nature. Hegel here uses the category of "becoming" because the transition from idea to nature is immediate, i.e., it is not mediated by anything that would be interposed between the idea and its own exteriority. Since the idea is the universe in its logical form, nothing external can urge the idea to go outside of itself. The conceptual structure of the idea itself, insofar as it is a purely formal possibility and universality, demands that it determine and singularize itself, thus exposing its interiority in the exteriority of nature.¹⁶ The difficult and much debated end of the logic (Enc A 191 and BC 244) is thus reinterpreted in Enc A 302 (BC 384) as the first moment of the spirit's self-manifestation.

The *second* perspective is that which was expressed in § 299. Spirit was there opposed to nature and characterized as free in a negative sense. The self-actualization of spirit's free possibility is now seen as a positing of nature without losing itself in it. The presupposition (*Voraussetzung*) is revealed as produced by the spirit

¹⁶ Cf. D. Wandschneider and Vittorio Hösle, "Die Entäußerung der Idee zur Natur und ihre zeitliche Entfaltung als Geist bei Hegel," in *Hegel-Studien* 18 (1983): 173-199.

itself. The spirit is not generated by natural conditions, as materialists would have it, but instead posits or pre-poses these conditions as its own presuppositions. Nature has its own independence, but it owes this to the spirit which generates and possesses it as its own property. As such, nature is called the spirit's *world*.¹⁷ The relation between a positing instance and its presupposed opposite is typical of the reflexive determinations of Hegel's logic of essence. This unresolved duality makes it an unsatisfactory answer to the question of what the spirit as self-manifestation is.

The *truth* of revelation can only be found in the dimension of conceptuality, which dominates the *third* perspective. When we understand that the spirit's universality necessarily particularizes and singularizes *itself* in the exteriority of nature, nature is revealed as the positive (or "affirmative," BC 384) being (*Sein*) of the spirit itself. Freedom then no longer appears as the mere possibility of detachment from nature and being, as was explained in § 300, but rather as the actuality of a positive embodiment in the natural forms of its own being real. From this third, and alone fully true, perspective, the spirit's revelation is the same as *creation*: its freedom produces the universe (nature, world, and all that history and culture produce) as its own materialization, incarnation, and glorification.

Enc A 303:

This idea is *the concept* of spirit; or the spirit is this *in itself*, as universal. But it is only spirit at all insofar as it is the *concept for itself* or as singularity; and it is *for itself* essentially only when it particularizes itself, has its *concept* as presupposition, and relates to this concept as to its immediacy. This immediacy is nature as *being of the spirit*, which being therefore is its *beginning*.

¹⁷ "*Welt*" (world) has several meanings in Hegel's oeuvre. In the context of Enc A 302, it is the *objective* totality in which the spirit realizes and manifests itself, encompassing all natural and spiritual objectivity. In Enc C 385, the "world" is restricted to the spiritual world of "right": the spirit as being there "in the form of reality" is "the world as having been generated and continually being generated by the spirit, in which freedom is present as necessity." Another name for this world is "objective spirit." This is also the meaning of "world" in GrI 4, where "the system of right" is characterized as "the realm of actualized freedom, the world of the spirit generated by the spirit and as a second nature." Cf. also Enc C 8R (the spirit is "the cause of the world"), 484 ("the actuality of the world has the form of necessity"), and 569 (the spirit is "eternal, but *alive* and present in the world").

The above section, which Hegel eliminated in the later editions of the *Encyclopedia*, summarizes the definition that is provided in §§ 299-302 and underlines the conceptual structure of the spirit.

"This idea" at the beginning of § 303 refers to § 299, where the spirit was disclosed as the idea that, through its objectification in nature, has acquired being and being-there (*Dasein*) for itself. The abstract concept of spirit (its "*in itself*," its possibility and abstract universality) has thus come to the fore (§§ 299-300). However, as §§ 301-302 show, the concept of spirit also includes the truth that its concept, as distinct from nature, is for *itself*: it relates to itself by determining (i.e., by particularizing) itself and, as § 303 affirms, by keeping its particular determinations together in its own singularity. By making explicit the singularity of the spirit, this section emphasizes that the spirit has the three moments of the concept in and for itself: universality, particularity, and singularity. The logic of the concept has thus enabled us to understand the structure of the spirit.

While the last sentence of § 303 appears to repeat the end of § 302, it is in fact the announcement of the *divisio*, which is given in §§ 304-305. As "*being of the spirit*" (cf. the "positing of nature as its own world" and the "creating of nature as the spirit's being" in § 302), nature is the immediate being that the spirit provides for the realization of its own concept. The spirit's first determination of its own concept is nature *as* the spirit's being: the corporeal conditions that the spirit requires to be real, or the first configuration in which the spirit is realized, to wit, the natural aspect of the human soul, which is the first topic of the philosophy of subjective spirit. In the division of the philosophy of spirit in general (§ 304), the philosophy of subjective spirit is listed as (1) "beginning" and first moment of the concretized or fully actualized concept of the spirit. The names of the other two moments (*scil.*, "objective" and "absolute" spirit) and the reason for the tripartite distinction are provided and succinctly explained as (2) the realization of that concept, and (3) the spirit's unity of its concept and its objectivity. Since a full justification of Hegel's divisions presupposes the entire deduction of the moments in question, most of his divisions do not become clear until the end of their unfolding. A full commentary on § 304 would therefore presuppose that we have already understood the rest of the *Encyclopedia*.

Enc A 304:

This beginning is the first moment of the spirit's concrete concept, which, in its totality, a) encompasses the *subjective spirit*, b) as *objective spirit*, realizes this concept, and c) as *absolute spirit*, is for itself the unity of its concept and its *objectivity*.¹⁸

"*Subjective spirit*" is presented as the immediate and natural, but still subjective, form of the spirit; the *objective spirit* is the realization of the spirit's concept, whereas the *absolute spirit* possesses itself in a freedom that encompasses and transcends the subjective moment of the not yet realized concept and the objective moment of a realization still dominated by a kind of opposition between the subjective and the objective.

The abstract distinctions of the spirit in general presented in § 304 repeat, on a higher level, the distinctions that were operative in § 299 with regard to the *idea*. The concept of the idea objectifies itself in nature, but returns to itself by identifying its natural objectivity with its logical subjectivity. The resulting identity of the idea with itself is the abstract concept of *spirit*. The philosophy of spirit shows how this concept becomes concrete: the (abstract and subjective) spirit objectifies itself in a *world*, which Hegel several times calls a "*second nature*,"¹⁹ but it overcomes the opposition between its subjectivity and objectivity when it actualizes and comprehends their fundamental identity. This identity is not the beginning of something higher, deeper, or greater than the spirit, because the spirit is the absolutely universal singularity that

¹⁸ My translation has simplified the syntax of this section to make it clearer.

¹⁹ GrI 4, 151; cf. 142, 146R, 187R, 189; Ilt 4, p. 745 (the spirit construes for itself another nature, a world of freedom: the state); Enc C 385Z; and my "'Second Nature': Place and Significance of the Objective Spirit in Hegel's *Encyclopedia*," in *The Owl of Minerva* 27, n. 1 (1995): 51-66. It seems obvious to me that the expression (not the Hegelian conception of) "*second nature*" is inherited from the Aristotelian tradition of custom and true virtue as *deutere physis*, but Manfred Riedel (in *System und Geschichte*, Frankfurt/Main: Suhrkamp, 1973) argues that it derives from Hobbes and cites *Elements of Law* I, 19, 5, *De Cive* II, 5, 5, and *Leviathan* II, 17, where Hobbes argues that duties and rights are generated by artificial laws and not by nature (pp. 99-108). Riedel sees in Hegel the continuation of the typically modern tendency to oppose spirit and nature (pp. 105-115) but (1) he understates Hegel's clear integration of nature into all spiritual realities, especially in the "world" of "right," and (2) he neglects Hegel's acquaintance and relative solidarity with the scholastic natural law tradition, for which "nature" (as the translation of *physis* and *natura*) was much less "natural" than the nature of modern physics.

encompasses all possible and actual being. The end of the *Encyclopedia* can only refer to its beginning, where being imposes itself as the inevitable point of departure. As "being of the spirit" (A 303), created in order to reveal the spirit's own infinity, being must be understood as the most elementary level of the spirit's self-actualization. Rereading the *Encyclopedia* in light of its end, the reader self-consciously reproduces the spirit's knowledge of itself. The Delphic precept "Know thyself," which stands above the entrance to the philosophy of spirit, is then understood as the command to participate in the life of the Absolute.²⁰

Obviously, the debate about the character of Hegel's spirit and the relations between its three moments cannot be settled by a succinct commentary on the quoted sections, but neither can these sections be ignored or replaced by hasty characterizations of Hegel as a historicist or a theoretician of the modern "mentality." I will return to this issue once we have analyzed more of Hegel's treatise on spirit. At that point, the conclusion expressed in § 305 will play a decisive role.

Enc A 305:

The first two parts of the *doctrine of spirit* encompass the *finite* spirit. The spirit is the infinite idea, and the meaning of finiteness, [which, in general, is] the incongruity of concept and reality, lies [more specifically] in the determination that it is a shining within itself, a shine posited by the spirit as a limit to itself in order to have and to know *for itself* freedom as *its own* essence through the sublation of that limit. The various phases of the spirit's activity are phases of its liberation, in the absolute truth of which [1] the *finding* of its world as presupposed, [2] the *generation* of this world as one that is posited by the spirit, and [3] the *liberation* from this world are one and the same.²¹

Hegel here provides an alternative division by taking subjective and objective spirit together as the finite (and thus inadequate) realization of the (concept of) spirit. According to its abstract concept, the spirit is the fully actualized idea; it is, therefore, the absolutely universal and all-encompassing or "infinite" identity of

²⁰ BC 377 "Know thyself." Cf. *Selbsterkenntnis*, pp. 36-37 and 158-165.

²¹ I have italicized "*liberation*" in the last sentence to emphasize the three phases of the truth characterized here as "*finding*" (presupposition), "*generation*" (positing), and "*liberation*" (free identity).

the subjective and the objective. The finiteness and inadequacy of both subjective and objective spirit are here explained in terms of the second part of the logic: the logic of essence (*Wesen*) and appearance (*Erscheinung*). The spirit (and its freedom) is real in the phenomena (or appearances) of subjective and objective spirit, but these phenomena do not concretize that essence perfectly. *Neither soul, consciousness, or human spirit* (the three forms of subjective spirit), *nor right, morality, state, or world history are perfect revelations of the spirit's possibility*. Therefore, they cannot provide the answer to the question of how spirit is fully actual and fully revealed. They can only be partial and/or *subordinate* dimensions of the absolute — phases of an ongoing process that tends toward *absolute or infinite freedom*. The final or absolute “truth” of spirit (i.e., the complete and perfect actuality of its concept) is the integration of the finite realizations into its perfect self-possession, which Hegel equates with absolute or perfect *self-knowledge*. In light of this ongoing process, Hegel replaces the terms “subjective,” “objective,” and “absolute” with the following characterizations: (1) “*finding of the world as presupposed*,” (2) *generation of the world as posited by itself*, and (3) “*liberation from*” the world. The third expression sounds dangerously dualistic, but Hegel’s insistence on the unbreakable unity between the infinite and the finite warns the reader that the negative aspect of freedom (“freedom from”) should be taken as a moment or phase only, and not as a final or isolated thought. While maintaining a distance from all “worldly” elements, absolute freedom at the same time encompasses them as necessary for the concretization of its affirmative activity.

In the Remark on § 305 (reprinted in BC 386R), Hegel polemizes against the false modesty of those philosophers and theologians who separate the finite from the infinite and claim that it would be too audacious to treat the infinite as a topic of scientific discourse. By isolating the finite, they treat it as absolute, contradicting their own intention to honor the incomparable height of the infinite. Their logic, a logic of the intellect (*Verstand*), does not permit them to comprehend that finiteness cannot be independent; it requires union with the infinite in order to be; of itself, it “is” only in passing, as a transition without ultimate subsistence. The spirit is not finite at all; insofar as some

spiritual phenomena seem to be finite, they have not yet shown the infinity that supports them. What the proponents of absolute finitude call modesty is in fact a fundamental sin against the spirit.

A Few Remarks (Enc A 302R and 305R)

From a historical perspective, Hegel's conception of spirit obviously identifies three instances that the Ancients distinguished: the *One* (Plotinus' and Proclus' *to Hen*, Plato's *to Agathon*), the *Nous* (of Anaxagoras, Aristotle, Plotinus, and Proclus), and the *Psychē* (as *pōs panta* according to Aristotle, cf. § 302). The role of these extremely important distinctions within Hegel's conception of the spirit's actualization is determined by his own view on the *universality* of the one and unique spirit, the *particularity* of the onto-logical and ontic thoughts (*noēta*) in which the spirit differentiates itself, and the *singularity* of the soul within the totality of the spirit's self-thinking thought (*noēsis noēseōs*).

Because Hegel conceives of the One Absolute as the universal *genus* of all *genera*, he will ultimately identify it with the universality of the total universe, thus blurring the neoplatonic separation between *to Hen* and *ta panta*. At the same time, the distinction between the *psychē* (which is the soul of the cosmos), in which the singular minds share, and the *nous* or spirit, as the totality of all ideas, is conceived as the spirit's self-singularization in human intellects. Because the latter are the singularization of the *One* (spirit), which is *Nous* (the encompassing idea of all ideas, which Hegel also calls "the logical"), they (co-)constitute the Absolute, which, as One-Thought-Thinking-Itself, is actual in and as the originary and universal genus of all thinking and individuals.²²

²² On Hegel's (mis)interpretation and transformation of Plotinus and Proclus, and especially of their interpretation of Aristotle's *noēsis noēseōs*, see Düsing, *die Geschichte*, pp. 133-158 and "Noesis Noeseos und absoluter Geist in Hegels Bestimmung der Philosophie," in Bernard Tuschling (ed.), *Hegels enzyklopädisches System* (forthcoming), and Werner Beierwaltes, "Plotin im Deutschen Idealismus" and "Hegel und Proklos," in his *Platonismus und Idealismus* (Frankfurt am Main: Klostermann, 1972, pp. 144-153 and 154-187). Cf. also Pierre Aubenque, "La question de l'ontothéologie chez Aristote et Hegel," in Guy Planty-Bonjour, *La question de Dieu selon Aristote et Hegel* (Paris: Presses Universitaires de France, 1971), pp. 260-283, especially pp. 273-283, and Leonardo Semonà, "Atto puro e pensiero di pensiero nell' interpretazione di Hegel," in Giancarlo Movia (ed.), *Hegel e Aristotele* (Calgary: University of Calgary, 1995), pp. 204-252. Hegel's

Although Hegel maintains that the spirit's complete actuality is its perfect knowledge of itself, this knowledge is mentioned only incidentally in the definition from which the entire philosophy of spirit is developed. Only in § 305 is "knowing" (*wissen*) mentioned as a synonym for "having." Otherwise, in §§ 299-305, Hegel avoids the distinction between the theoretical and the practical, opting for neutral terms, such as idea, concept, finding, activity, generation, revelation, positing, reality, realization, creation and so on. As an overall characterization of the spirit, Hegel repeatedly uses "freedom" (*Freiheit*) or "liberation" (*Befreiung*) (§§ 300, 302, 304, and 305). The context shows that "freedom" is here taken in a general sense that precedes the distinction between theory and practice. The words "reason" (*Vernunft*), "intellect" (*Verstand*), "intelligence" (*Intelligenz*), and "will" are not mentioned. By employing logical categories to clarify the spirit's conceptual structure, all explanations focus on its self-sufficient originality, which reaches its full actualization neither in subjective, nor in objective spirit, but only in the absoluteness of religion and philosophy. *"Freedom," as it is employed here, points therefore to the end of the Encyclopedia; to comprehend the spirit's freedom, more is required than the philosophy of objective spirit or "right" alone.*

In the further development of Hegel's system and in his lectures, "freedom" is often used in a more restricted sense, especially when it refers to dimensions of human praxis. However, the meaning and function of freedom, as predicated of finite accomplishments in human praxis and theory, cannot be separated from the freedom of the overall spirit and the empirical totality (*das Ganze*) in which the spirit is manifested.

A last remark concerns the meaning and role of religion in Hegel's philosophy of spirit and, more precisely, in his treatment of "right." Why did Hegel think it useful to utilize the religious categories of *revelation* and *creation* in his definition of spirit? His Remark on § 302, reproduced with minor changes in BC 384,

interpretations of the classics in his courses on the history of philosophy are sometimes more revealing for his biases than for the central thoughts of his sources. With some exaggeration, one could argue that both his greatness and his weakness lie more in his synthetic (and sometimes rather violent) art of retrieving the classics than in the originality of his own ideas.

follows a frequently-used strategy: he appeals to his readers' or listeners' familiarity with the Christian religion and theology in order to introduce a philosophical topic; but such an appeal is only a particular instance of a more general strategy. Convinced that philosophy is the conceptualization of obvious and common representations (*Vorstellungen*), Hegel presupposes in his audience certain representations, opinions, and feelings that belong to the average *doxa* and *ethos* of a shared culture, which he then reformulates, modifies, and justifies in terms of his own philosophical conceptuality. At the end of the Remark on Gr1 4, for example, he appeals to the representations (or "ideas") that are evoked in his readers' minds by such words as "human," "will," or "right." If religion, as Hegel believes, belongs to the realm of representation (*Vorstellung*), philosophy has the task of translating the truth of the religious dimension into conceptual thought. This does not necessarily mean that all representations, including religious ones, are abolished, made superfluous, or emptied by philosophy; however, since Hegel claims that the content of true religion coincides with the content of philosophy, all religious and theological discourses can be translated without remainder into philosophy. This is confirmed by the analysis of the quoted sections in which the expressions "revelation" and "creation" are meant to have a purely philosophical context. For the justification of their truth, Hegel refers exclusively to his logic. But is this (onto)logic itself free from any religious, quasi-religious, gnostic, or "metaphysical" inspiration?

Philosophy of Spirit (Enc A 305-307)²³

Hegel's *entire* philosophy is one long unfolding of the all-encompassing One, whose most adequate name is "spirit." Every thing and every dimension of the universe is therefore a realization and revelation of spirit. But if all beings and movements are spiritual, the word "spirit" has as many meanings as there are modes of being and becoming. One aspect of this multivocity is illustrated

²³ Section 307 immediately follows section 305. An original section 306 was probably erased or perhaps intended for the division of the doctrine of the spirit into three parts, which then became § 304.

by the fact that "spirit" is the title or subtitle of several parts of Hegel's system. This is already obvious from the table of contents, in which "Spirit" figures as characteristic of the entire third part (C), of a subdivision (C.I.c), and, as "absolute spirit" (i.e., as the encompassing summit of the entire universe of being and thought), of the culminating division (C 3) of the last part and the entire system.

C. Philosophy of *Spirit*

1. Subjective Spirit

a. Soul

b. Consciousness

c. *Spirit*

2. Objective Spirit

3. Absolute *Spirit*

In the first part of this chapter, we saw how Hegel delineated the abstract concept of spirit. The fully concrete actuality of this concept can be found *in absolute spirit only*. "Subjective spirit" is the title for the *formal* determinations of the human spirit (the finite spirit as potentiality or as totality of "possibilities" or "faculties"). The highest dimension of human spirituality, which at the same time encompasses all others, is "spirit" in an emphatic sense: that possibility of human beings that makes them *rational*, i.e., *thinking and willing*, animals. *This, and not mere consciousness or self-consciousness, is the basis of "right"* (Gr1 4). We must, therefore, first understand how the concept of spirit is realized in human spirit as encompassing not only consciousness and self-consciousness, but also the rational possibilities of intelligence and will.

Hegel's entire deduction of the thinking and willing spirit from its abstract concept (as defined in §§ 299 ff.) cannot be summarized here because it demands the reconstruction of his entire anthropology and phenomenology; however, a correct understanding of his philosophy of right presupposes that we at least comprehend the difference between the dimensions of *consciousness* and *self-consciousness*, on the one hand, and that of *reason* on the other.

(Self-)consciousness is characterized by various forms of duality and contradiction. Therefore, it cannot be considered the ultimate or most fundamental reality. Its contradictions are resolved, however, by sublation into reason. In the *Grundlinien*, Hegel emphasizes that "right" is rooted in spirit, and not immediately in

mere consciousness or (self-)consciousness.²⁴ The comprehension of right demands, therefore, that we grasp the meaning and relevance of the difference between spirit and (self-)consciousness. Neglect of this would lead to a subjectivistic conception of right, for (self-)consciousness is only one (subjective) element of spirit and right, while the "truth" of self-consciousness is *reason* (Enc A 359), i.e., the identity of the subject (in the form of consciousness and self-consciousness) and its object. As this identity, in which consciousness and self-consciousness are sublated, *reason is not a relation but a union; the difference between subject and object is overcome in a higher (and deeper) identity. Reason is the identity of thought and being* (Enc A 5).

Phenomenology and Philosophy of Spirit (Enc A 329-362)

Within the limits of this book, it is not possible to thoroughly discuss Hegel's theory of consciousness and self-consciousness and the enormous literature that has developed around it, especially with regard to the central concept of recognition (*Anerkennung*). It is necessary, however, to at least clarify the difference between the dimension of "*phenomenology*," to which consciousness and self-consciousness and "the combat of recognition" belong, and the theory of spirit in the restricted sense of rational — theoretical, practical, and free — spirit, which Hegel, in the *Encyclopedia* of 1827 and 1830, calls "*psychology*."²⁵ Many commentators have made "recognition" the basis of Hegel's philosophy of right,²⁶ but this

²⁴ GrI 4 & R, 5-29, especially 8.

²⁵ The theory of human rationality as concretized in intellect, reason, intelligence, and will is presented in Enc A 363 ff. under the title "The spirit," and in Enc A 307 is still referred to as "the so-called psychology." In Enc BC 378 Hegel speaks of "the pneumatology or so-called rational psychology," but in BC 387 and 440 ff. he adopts the "psychology" as the title for the concluding part of the theory of subjective spirit.

²⁶ For example, Allen W. Wood, *Ethical Thought*, pp. 77-93 and *Elements*, p. 406, n. 1 on GrI 45, and p. 413, n. 1 on GrI 71; Robert R. Williams, *Recognition: Fichte and Hegel on the Other* (Albany: State University of New York Press, 1992) and *Hegel's Ethics of Recognition* (Berkeley: University of California Press, 1997); and Redding, *Hegel's Hermeneutics* (Ithaca: Cornell University Press, 1996). However, Richard Dien Winfield, in his contribution to Stillman (ed.), *Hegel's Philosophy of Spirit* (Albany: State University of New York Press, 1987), pp. 21-24 rightly states that a real struggle of self-consciousnesses "*presupposes* [my emphasis] individual selves already possessing the self-consciousness of desire, as well as the

thesis is misleading. Some interpreters even jump directly from the famous passage on "mastery and service" in the *Phenomenology of Spirit* of 1807 to the beginning of the *Grundlinien*, ignoring the development of Hegel's thought during the thirteen years that separate the two books. In his *Encyclopedia*, Hegel himself makes a sharp distinction between the phenomenology, in which the battle for recognition represents a moment in the transition from (self-)consciousness to reason and spirit proper, and the psychology, in which the spirit is no longer determined by any other consciousness or self-consciousness, but rather by its own (self-)determinations (without however abolishing its essential relations to other instances of self-consciousness). In GrI 8, 35R, 57R, and 71R, he explicitly states that the phenomenological combat belongs to a pre-spiritual stage of the system, which from now on proceeds according to the logic of freedom: instead of elaborating on the *relation* between two (self-)consciousnesses, the philosophy of right unfolds the idea of the one rational will and its claim to worldly realization in free communities and associations, a will that, as we shall see, is instantiated in many singular subjects. If recognition, analyzed in the various versions of Hegel's phenomenology²⁷ is indeed so fundamental for Hegel's philosophy of right, why then does he not say a word about it in the introduction (§§ 1-32) to the *Grundlinien*?

theoretical and practical capabilities needed to perceive and act towards others (Enc [C] §§ 424-430)," and "Hegel makes it quite clear that many of the most important features of subjectivity are not dependent upon intersubjective relations, and that, on the contrary, intersubjectivity is inconceivable without independently given subjective endowments" (p. 23). See also Elliot L. Jurist, "Recognition and Self-Knowledge, in *Hegel-Studien* 21 (1986): 143-150, who stresses the aspect of self-knowledge in *Anerkennung*. For an adequate interpretation of the struggle and the relationship between master and servant, it is necessary to see that, in all Hegel's versions, they are only transitional phases in a process of acquiring the freedom of a theoretical as well as practical attitude toward life. Without freedom with regard to needs and death, neither true (rational) knowledge, nor a truly human (legal, social, political, cultural) praxis is possible.

²⁷ *Die Phänomenologie des Geistes*, GW 9, pp. 109-116; Enc A 352-356; BC 430-436. The differences between the Encyclopedic version of the struggle for recognition and the version presented in the *Phenomenology* of 1807 are studied by Wolfgang Janke, *Historische Dialektik: Destruktion dialektischer Grundformen von Kant bis Marx* (Berlin: Walter de Gruyter, 1977), pp. 361 ff. and Edith Düsing, in her excellent *Intersubjektivität und Selbstbewußtsein* (see note 47), pp. 312-327 and 332-338.

To settle this point, it is necessary to anticipate the interpretation of the word *Anerkennung* (recognition) as it is used in the *Grundlinien*. Before analyzing the slightly different meanings it has, we must be aware that the word "*anerkennen*" ("recognize," "acknowledge," "take for granted," or "admit") can be used on many levels and in many respects. It is therefore often followed by "that" (*daß*) or "as" (*als*): "I recognize that you have the right to possess this"; "I recognize you as a proprietor, a person, a judge, an honest man . . ." In the majority of places where Hegel uses *anerkennen* or *Anerkennung* in the *Grundlinien*, the issue is right in general or a specific right, which is acknowledged as right, valid, or respectable (e.g., §§ 71, 85, 107, 132&R, 137R, 164&R, 177, 179R, 180, 206R, 209, 214R, 217, 253R, 260, 324). A special case, which still fits this use, is the mutual recognition of sovereign states (§§ 331-351), where "recognize" and "recognition" are suddenly used thirteen times, in contrast with their relative scarcity in the rest of the book. In §§ 192 and 226, however, recognition concerns a fact rather than a right.

A use that is somewhat similar to the one that occurs in Hegel's phenomenologies can be found in §§ 207 and 253. In these sections someone is acknowledged, recognized, respected, and honored as a person who is honest (*rechtschaffen*) and *honorable* (he has *Standesehre*) by fulfilling his professional obligations and/or faithfully doing his job. The difference with the phenomenological *Anerkennung* is that the latter, as the relation between (self-) consciousnesses only, does not yet relate persons, moral subjects, bourgeois, or citizens. All phenomenological relationships, whether linking master and servant or independent self-consciousnesses, are ruled by an opposition between subject and object, while all spiritual — psychological, juridical, moral, social, or political — relationships are internal to the rationally free (thinking and willing) spirit, which has only to do with its *own* (self-) determinations.²⁸ The phenomenological phenomena constitute only the appearance (*Erscheinung*) of the spirit proper. To clarify

²⁸ In GrI 349 and 351, Hegel states that a "struggle for recognition" between peoples precedes world history because it precedes their becoming states. Insofar as this fight *introduces* (some of) them into history, it is relevant for the latter.

this difference, a succinct explanation of Hegel's phenomenology²⁹ will be necessary before the concepts of spirit and right can be understood properly. Without bothering about the differences between the many versions of Hegel's phenomenology — and without confusing the *Phenomenology of Spirit* (1807) with Hegel's later work — I will base the following explanation on the text that is closest in time to the *Grundlinien*, namely, the sections on consciousness and self-consciousness found in the *Encyclopedia* of 1817: Enc A 329-362.

Consciousness (Enc A 329-334)[†] ,

"Consciousness" is the title of the second part (Enc 329-362) of Hegel's philosophy of subjective spirit (Enc A 307-399) as presented in 1817. In the second and third editions of the *Encyclopedia*, "Consciousness" became the first subtitle of this part, whose title then became "the phenomenology of spirit" (BC 413-439), a name Hegel also uses in the remark on § 332 of the first edition. Although the latter title is identical with that of the book of 1807, its content is different: it is a treatise that shows how *consciousness* (A 335-343) and *self-consciousness* (A 344-359) develop into *reason* (360-362). As such, this treatise is intermediate between Hegel's treatise on "the soul" (A 308-328) and his treatise on "the spirit" (A 363-399).

The treatise on "the soul" (or the "anthropology"³⁰) analyzes the natural aspects of the human spirit, as immersed in and united with nature. It abstracts from all that is typical of the human mind³¹ (consciousness, self-consciousness) and spirit (in the

²⁹ With respect to Kantianizing interpretations of Hegel's work, it is interesting to point out that Hegel, in Enc A 332R, opposes Kant's philosophy, as a philosophy of (the spirit as) consciousness or phenomenology, to his own philosophy of spirit proper. Neither Kant, nor Fichte "have reached the *concept* or the *spirit* as it is in and for itself"; they adhere to the spirit "as it is in relation to something other."

³⁰ In A 307 Hegel calls the study of the soul or natural spirit "the so-called anthropology," but in BC 378 and 388 ff. the term "so-called" has disappeared.

³¹ To indicate the phenomenological dimension of consciousness and self-consciousness, I will use the words "mind" and "mental." Those who translate Hegel's *Geist* as "mind" often confuse the spirit with (self-)consciousness and the philosophy of spirit with the phenomenology (in the sense of Hegel's *Encyclopedia*).

emphatic sense of this word), in order to concentrate on corporeal and sub- or pre-conscious phenomena. It deals with human animality, and not with features that make the human animal rational and humanly conscious of objects and itself. "Consciousness" coincides neither with the awareness of non-human animals, nor with the rational possibilities of speaking, thinking, striving, willing, acting, etc. Hegel carefully distinguishes between the many levels and elements of the *Cogito*, taking Aristotle's *Peri Psychēs* as his example.³²

As intermediate between "soul" and "spirit," the mind (consciousness and self-consciousness) is the dimension where the natural unity of human life is lost and the superior unity of the spirit has not yet been reached. "Losing" and "reaching" are not meant to suggest that the dimension of consciousness could be isolated from the other human dimensions. I use this terminology to focus on abstract elements, which, if taken by themselves, compose a dimension that is dependent upon other dimensions. Consciousness and self-consciousness are forms of relation (*Verhältnis*) and reflection (*Reflexion*). As such, they make something else appear that holds them together: a unifying ground which does not immediately show up in their appearance (*Erscheinung*). This ground is the spirit. Therefore, the purpose of the entire phenomenology (A 329-362) is to show that and how the relations into which consciousness necessarily develops manifest the hidden presence of reason, which is the one fundamental essence of spirit (Enc A 329).

The non-identity of consciousness (or as Fichte would say, the "I," *Ich*) is obvious from its most elementary description: on the one hand, it is subjectively certain of itself, and thus immediately identical with itself; on the other hand, it is confronted with and tied to an object that is other. This opposition to its object includes its distance from the natural or quasi-animal properties that were analyzed under the title "Soul."

Being "for itself" (*für sich*), the "I" is at the same time conscious of a being (*Seiendes*), a *given*, that it is not (A 331). "We," who have

³² The translation "On the Soul" would be confusing in this context because Aristotle's *psychē* encompasses what Hegel distinguishes as (1) soul, (2) consciousness (including self-consciousness) and (3) (subjective) spirit.

already discovered the truth of consciousness (namely, that it is the appearance [*Erscheinung*] of the spirit, which is its ground [*Grund*] and essence [*Wesen*]), know that the subjective and the objective sides of the mind, which seem opposed, are indeed profoundly identical; but this can only be known from a perspective higher than that of immediate (self-)consciousness. Only from the perspective of spirit itself can we understand that the certainty of the "I" about itself and its awareness of its objects coincide. Seen from that perspective, consciousness always already *is* a return through its other to itself. "I is itself and encompasses the object; it is *one* side of the relation and the *entire* relation, the *light* that manifests itself and still others" (A 329).

However, what is true from the perspective of a higher (or deeper), more true, level of reality is a contradiction for the abstract or immediate consciousness as such, although its concept already contains the elements whose unfolding will prove that hidden truth. The proof lies in the movement of "our," the philosopher's, thought in which consciousness itself unfolds its own essence. Because oppositions and apparent contradictions play a central role in this movement, Hegel calls it "dialectical" (A 332). It must be shown that the contradictory *appearance* of consciousness, as it is spontaneously experienced, is, in truth, identical with its self-identical *essence*. The "self-knowledge" that lies in the immediate certainty of its I=I will be shown to be only an initial and provisional form of its truth (A 333). The demonstration will be complete when the initial self-awareness and the awareness of its objects' otherness coincide in the awareness that the I is identical with all objectivity and that all objectivity is identical with the subjectivity of I. This identity is called *reason* (A 359-360). The demonstration is thus the dialectical movement *from consciousness to reason*, or the transformation of consciousness into the self-conscious *concept* of itself *as* appearance of its rational essence.

In undergoing this transformation, consciousness participates on its own level (i.e., on the level of the conscious relation to itself) in the circle of spirit as absolute negativity. Just as the Absolute (as *Idea*) becomes other with regard to itself (in *Nature*) in order to conquer its own concrete actuality in *Spirit*, subjective spirit — on the finite level of the human mind — manifests itself as other than itself in its own conscious and self-conscious

oppositions in order to enjoy itself in free self-knowledge and self-conscious freedom. The overall movement of the Absolute as identical with itself in its becoming other and recovering its otherness in full self-actualization is the ultimate framework that is *mirrored* on all subordinate levels of the universe. Absolute negativity or self-identification through self-differentiation is the Law. "Identity of identity and non-identity" is one of the early formulae for it.³³ This formula is sometimes quoted to stress the importance of difference, otherness, multiplicity, and relativity in Hegel's system and as an argument against monistic interpretations. Certainly, the importance of differentiation for Hegel's thought must be conceded, but otherness is not absolute, original, and final as is identity. The repetition of "identity" in the quoted formula is already an indication: a non-absolute "identity" is encompassed and integrated, together with its negation or "difference," into the *absolute identity*, which, in the end, is the unique absolute. If, in this context, we may borrow the words of Meister Eckhart, we could say that, according to Hegel, the one Godhead encompasses and transcends the divine persons (and, consequently, the human and natural universe in which they are concretized).

The formula "identity of identity and non-identity" clearly affirms what is reflected in the phrase quoted above, which states that the spirit, in the form of the I, is simultaneously *one* side of the relation *and the entire* relation (or the whole encompassing itself *and* its other), the light that makes itself *and its other* manifest (A 329). The origin (*archē*) or ground (*Grund*) or essence (*ousia*, *Wesen*) is (and shows) itself simultaneously *as* origin (and ground and essence) *and* as the encompassing totality that ensues from this origin. In being itself the origin, the One (*to Hen*) simultaneously *is* the All (*to Pan*).

Interpreters who do not see that Hegel retrieves the classical tradition of Aristotelian and (Neo)Platonic metaphysics, in addition to the merely "reflexive" or "phenomenological" approach of Kant and Fichte, have attempted to strip Hegel's philosophy of its

³³ GW 4, p. 64: "Das Absolute selbst aber ist darum die Nichtidentität der Identität und der Nichtidentität; Entgegensetzen und Einssein ist zugleich in ihm." Cf. also *Die Phänomenologie des Geistes*, GW 7, p. 416-417: Neither identity, nor non-identity have truth; only the movement of their *Aufhebung* into unity, "which is the spirit," is fully true. See above Chapter One, note 65.

monistic character by playing his own phenomenology off against his explicit declarations about the absolute and universal (i.e., all-encompassing) character of the spirit. Antidotes to this misunderstanding can be found in the Remarks that Hegel added to four sections of his 1817 treatise on consciousness and self-consciousness (A 332, 335, 337, and 358), two of which (A 332 and 337) focus on Kant. The first Remark is particularly important for understanding Hegel's distinction between phenomenology and philosophy of spirit.

Enc A 332 Remark:

Kant's philosophy can be most accurately seen as having understood the spirit as consciousness and as containing only determinations that belong to the phenomenology, not to the philosophy of spirit. It sees the *I*, and thus both intelligence and will, as a relation to a thing-in-itself that lies beyond. When, in the concept of *reflecting* judgment, it does speak about the *idea* of spirit, subject-objectivity, an *intuitive intellect*, etc., and also about the idea of nature, this idea itself is again reduced to an appearance in the form of a subjective maxim. That *Reinhold* interpreted this philosophy as a theory of *consciousness* under the name "*faculty of representation*," must therefore be seen as a correct interpretation of its meaning. *Fichte's* philosophy has the same standpoint. The non-*I* is determined as being only the *I's object* (*Gegenstand*), [i.e., as something that] only in *consciousness* [is given]; it remains [opposed to the spirit] as an infinite impact (*Anstoß*), i.e., as *thing-in-itself*. Both philosophies show therefore that they have not reached the *concept* or the *spirit* as it is *in and for itself*, but only as it is in relation to something other.

Identity of subject and object, not "relation to other," is the truth of spirit. The relations between consciousness and its objects or between consciousness and self-consciousness are elements whose full truth cannot be discovered through the reflection of subjective idealists, but only through a speculative thought that transforms them into partial moments of the spirit's self-knowledge, in which the thing-in-itself coincides with its concept.

How Consciousness Becomes Rational (Enc A 335-363)

Having characterized the mind as the appearance of spirit (A 329-331) and determined the goal and the main stages of the dialectical movement from consciousness to reason (A 332-334), Hegel now focuses on two problems: first, how can we reveal the identity

that is hidden in the opposition between consciousness and its object, and second, how can self-consciousness be shown to be the appearance of reason?

The first problem is resolved by showing how, through an analysis of the mind's involvement in sensation (A 335-336), perception (A 336-339), and intellect (*Verstand*; A 339-343), we discover that the universal and necessary determinations of objective reality are identical to the categories and laws by which the mind is governed. This discovery abolishes the opposition that seemed to characterize consciousness; the distinction between the mind and its object has disappeared.³⁴ This result is the foundation of Hegel's idealism: subject and object coincide in consciousness, insofar as it recognizes *itself* in its objects. Consciousness of objects is essentially consciousness of itself. The concept of self-consciousness is the essence and truth of consciousness; or, "*all consciousness of an object is simultaneously self-consciousness*" (A 344, my emphasis). The concept of self-consciousness, developed thus far, remains abstract, however. It must actualize itself by becoming objective and no longer merely subjective, i.e., by opposing itself to itself and then overcoming this opposition. The abstract concept of self-consciousness, which can be expressed in the formula of Fichte's $I=I$, must become the concrete self-possession of the *I* that recognizes itself in any other *I* and can thus be called a "universal

³⁴ Enc A 341. In the parallel versions of B and C 423, the transition to *self-consciousness* is made at this point by the addition of the following sentence: "In this determination [. . .], consciousness in its first form, which contains the *independence* of the subject and the object toward one another, has disappeared. [The] *I*, as judging, has an object that is not distinct from it: *itself*. [The result is:] *Self-consciousness* (B 423; the version of 1830 has a few stylistic modifications). However, the text of 1817 offers two sections (A 342-343) in which the development of consciousness continues. In these sections, consciousness is confronted with living objects (*ein Lebendiges*), which, even more than other phenomena, mirror its interiority. In preparing the second and third editions of the *Encyclopedia*, Hegel probably decided that this development, which remains closer to the *Phenomenology* of 1807 than do the later versions, obscured rather than clarified the transition to self-consciousness. In any case, he deleted both sections without replacing them with anything other than the sentence quoted above. I will not go into a discussion here of the differences between the various versions of his phenomenology after 1817, but only note that, besides the changes just indicated and despite some reformulations, the three versions of the *Encyclopedia* do not show fundamental changes in his philosophy of mind (for changes in his philosophy of human spirit, see *Hegels Prakt. Phil.*, pp. 69-98).

[i.e., encompassing and total] self-consciousness" (A 344-345 and 357). The latter will be shown to contain the concept of *reason* (A 359-362).

The dialectical movement from the (abstract) concept of self-consciousness to its realization as universal self-consciousness and reason contains the resolution to the second problem posed above. This issue demands special attention for a variety of reasons. Following the publication of Kojève's *Introduction to Hegel*,³⁵ which does not focus on the *Encyclopedia* but only on the *Phenomenology* of 1807, several authors have declared that its section on "Independence and Dependence of Self-Consciousness," which is often summarized as "dialectic of master and slave," is the basis of Hegel's social and political philosophy, or even of his entire philosophy of the spirit.³⁶ In doing so, they link the intersubjectivity of the mutual recognition that emerges in this section somewhat hastily with the commonality of the ethical and religious spirit,³⁷ ignoring the distance that separates the *Phenomenology* of 1807 from the *Encyclopedia* of 1817 and later works. They then interpolate the "I that is We and We that is I"³⁸ from the chapter on self-consciousness in the *Phenomenology* into the texts of the *Encyclopedia* and the *Grundlinien*, seeing it as the nucleus from which all further social relations can be developed. The validity of this interpretation will be challenged here.

In any case, one cannot deny that some form of human "intersubjective" relationship emerges in the dialectical transition from self-consciousness to reason.³⁹ However, as I have already explained above, the question concerning the overall process within which that transition is made is posed in the opening sections of

³⁵ Alexandre Kojève, *Introduction à la lecture de Hegel: Leçons sur la Phénoménologie de l'Esprit de Hegel* (Paris: Gallimard, 1947).

³⁶ GW 9, pp. 109-116.

³⁷ GW 9, pp. 193-198, 238 ff, 362.

³⁸ GW 9, p. 108.

³⁹ A subhuman form of sociality is already analyzed, though very briefly, in Enc A 288-289, which focus on the sexual difference of animals. In the *Encyclopedia* of 1817, Hegel does not pay any attention to sexual difference as a *human* relation. In the later versions, this difference is the subject of one section of the anthropology (BC 397). According to Hegel, intersubjectivity as a common human phenomenon seems to begin in human self-consciousness insofar as it externalizes itself by force of its desire of self-identity.

the phenomenology (A 329-334): How can (reason as) the *identity* of consciousness and its object come to light as the essence and ground of their *apparent* opposition or difference? All oppositions and relationships that emerge in the dialectical unfolding of consciousness, for instance the oppositions and even all relations between two I's, are *intermediate* stages whose "truth" can only be discovered by overcoming their difference in *the identity of the I's (self-)consciousness with itself*. The objectifying and "intersubjective" relations that come to the fore during the unfolding are not lost in the final identity, however; they are retained and elevated to a higher, more true level. The result is the I as having found itself and thus possessing itself in all things and other I's. This I is a *universal* I, aware of all other I's as equal *and identical* with itself. Thus we have deduced the transcendental *ego* as the ground of all human minds and as coinciding with the (universal, necessary, rational, categorical, and ideal) essence of the universe. The truth of consciousness has thus been shown to be the encompassing identity of its (initial) identity (as abstract self-certainty) and its difference (from the object); the truth of consciousness is reason (*Vernunft*). Thus, on the level of (self-)conscious human life, Hegel fulfills the "absolute command" that opens the introduction to the philosophy of spirit in the second and third editions of the *Encyclopedia*: "Know thyself!" (BC 377). The entire movement of subjective, objective, and absolute spirit is governed by this marching order, and all the stages of the journey repeat its (onto)logical rhythm.

In the opening sections of the Encyclopedic phenomenology, Hegel carefully avoids privileging knowledge and theory over willing and practical forms of spirituality; however, the development of the first part, the unfolding and unification of the relation between *consciousness* and its object (A 329-343), is entirely dominated by the theoretical perspective of post-Kantian epistemology. Conversely, the second part, in which *self-consciousness* reveals its rationality, emphasizes affective and practical elements of life: desire, struggle, submission, domination, service, freedom, etc. One would then expect the third stage, *reason*, to be neutral and superior to the distinction between theory and practice, but, in fact, knowledge is clearly emphasized. As I have shown elsewhere, the supremacy of the theoretical over the practical is quite obvious

in Hegel's philosophy of spirit.⁴⁰ It is, for example, already present in "Know Thyself!" with which it opens. The secondary status of the practical is established and expressed by the fact that it regularly appears as the *second*, intermediary stage of his dialectical developments, the stage of negation, relation and reflection, between the first stage of an initial and immediate simplicity and the third stage of perfection and (re)unification.

Interpretation of Enc A 345-362

Hegel's treatise on self-consciousness begins by presenting it as the truth and ground of all consciousness. To express its immediate character, he uses the Fichtean formula $I=I$. This indicates a self-certainty in which self-consciousness does not yet have any distance from itself, and thus cannot possess itself as the object of its own subjectivity (A 344; cf. 348). To be itself concretely, it must first go outside of itself (or take a distance from itself) in order to then return to itself (or to unite itself with its own exteriorization). Self-consciousness must oppose itself as an object to itself; the I must divide itself against itself. Self-consciousness is therefore a desire to negate its subjectivity by realizing itself objectively (A 345).

The first or immediate level of this development is provided in a singular, sensibly concrete self-consciousness that is confronted with an equally singular, sensibly concrete object in which it recognizes itself. Self-consciousness has not lost the structure of consciousness: it too is subjective and opposed to an object. Being at the same time consciousness of objects, self-consciousness must effect the identification of both dimensions in itself (A 346). Self-consciousness is thus a tendency or drive (*Trieb*) that strives to realize its concrete self-identity by sublating its inherent duality. Its subjective, still empty, self-certainty must be filled with an objective content, while its object must be discovered as the objectification *of itself*. Consciousness and self-consciousness must be shown to be identical (A 345-347). Herewith the program is set. Its dialectical unfolding is given in three stages: (1) a stage of negation and destruction (A 348-357); (2) a stage of struggle and submission (A 352-357); and (3) a stage of universalization, which is at the same

⁴⁰ *Selbsterkenntnis*, pp. 36-57 and 79-85.

time the self-identification of self-consciousness on a higher, no longer purely sensible and individualized, level.

Before we unfold the stages through which self-consciousness discovers and actualizes its potentialities, a remark on the imaginative and quasi-historical character of Hegel's presentation may be useful. *Since the phenomenology of consciousness singles out only one (essential but subordinate) dimension of human existence, it cannot yet focus on complete human individuals in the fullness of their capacities.* Hegel's phenomenology is not and cannot be interpreted as a philosophy of history or a philosophical anthropology in our sense of the word. However, it is inevitable that Hegel refers to concrete individuals in order to talk about their abstract dimensions, elements, properties, or moments. The dimension of self-consciousness does not represent an entire human being or any other "entity," and neither do the dimensions of sensation, sleeping, feeling, etc.; but how could we show their dialectical transformations without appealing to the human subject "in" which they evolve? This necessity explains why Hegel's analysis of self-consciousness and the transition from its immediate and superficial appearance to a more appropriate insight into its essence *seems* to tell a story about actual individuals, and not about the *element* "self-consciousness" only. In this "story," which some interpreters mistakenly read as a history, Hegel employs concepts like independence, master, slave, freedom, domination, labor, production, etc. — concepts that properly belong to later more complex parts of the system. In his phenomenology, Hegel uses them in an anticipatory way, or rather as metaphors, in order to illuminate the phenomenological aspects of human spirit.

In the *Grundlinien*, Hegel emphasizes several times that his phenomenology is neither a psychology nor a philosophy of right or society.⁴¹ The "intersubjectivity" of self-consciousnesses that are *not yet persons, subjects, men and women, or citizens* does not coincide with any of the relations (such as domination, respect, or sociality) that belong to the sphere of objective spirit.

The first "stage" or mode of realization of self-consciousness is destructive. As singular and sensible, its drive (*Trieb*) is a craving (*Begierde*) for the object. The self-certain identity of the I=I, which

⁴¹ Grl 8, 35, 57, 71. See above.

drives this self-conscious sensibility, realizes itself on this most primitive level through a most crude negation of the opposition: the annihilation and assimilation of its object (e.g., I eat it). Since the true reality of the object lies in self-consciousness, the object is without content insofar as its opposition to self-consciousness is maintained; however, the self-certainty of the destructive consciousness is then also empty and without specific content. This emptiness is confirmed and manifested in the destruction of its objectivity by the all-consuming subjectivity of self-consciousness (A 348-350).

This stage appears as a triumph insofar as self-consciousness conquers and integrates objectivity, but it is a failure because the selfish assimilation and disappearance of the object leaves the singularity of self-consciousness without any other objectification of itself. It remains alone, without any exteriority in which it can contemplate or realize itself. To obtain concrete actuality, destruction must be replaced by another kind of opposition: the object must be maintained and disclosed as identical with self-consciousness.

Such disclosure is possible only if the object is another self-consciousness. If so, how does it then appear and what kind of movement or process emerges from the relation of two self-consciousnesses?

The immediate form in which this relation arises, is the *vis-à-vis* of two consciousnesses that are "other" for one another. They are objects for one another, but as "selves" (in the sense of *self-consciousness*) they are "self-standing" (*selbständig*), independent, and "free" objects (A 352, 351).⁴² The previous sentence articulates what "we," who study self-consciousness, know; but this truth must be discovered by the very self-consciousnesses in question. Since the I sees in the other I both itself (as self-standing, independent, free, and self-sufficient) *and* an immediate, singular, sensible object (see above and A 346, 348, and 350), the I=I is here given as a contradiction (*Widerspruch*, A 352). As such, it necessarily initiates a dialectical movement or process, the result of which can only be found in a higher identity. As long as this identity, the

⁴² "Frei" here (A 351) cannot yet have the meaning of the spiritual freedom of intelligence and will, which will not emerge until A 366.

satisfactory actualization of the I=I, is not reached (i.e., as long as the multiplicity of self-consciousnesses has not been sublated into the universality of — one! — reason), a certain form of mutual recognition (*Anerkennen*) is the most that can be achieved. The second stage is therefore dedicated to the transformative possibilities of this “process of recognition” (A 352-357).

The opposition of two equally independent self-consciousnesses is a *struggle* (*Kampf*), but it does not involve an opposition between two fully human, intelligent, and willing individuals, although Hegel's quasi-narrative account may give that impression. What is at stake is only the self-conscious *dimension* or *moment* of a real struggle.⁴³ The egos within this relation conflict because their immediate being-there (namely their sensible singularity) is an inadequate expression of their I-ness. Self-consciousness cannot see *itself as self-consciousness* in the merely corporeal shape of its other. It cannot yet recognize the other self-consciousness as (identical with) itself. The inadequate realization of the other self-consciousness must be overcome, negated, suppressed: that body there must disappear or be killed (as was, for example, the food that was destroyed in the first stage, except that here the destruction is killing or even cannibalism; it is not, however, murder, because right has not yet entered the picture).

The disappearance of the other's immediate being through flight or murder abolishes the entire relation, and therewith all chances of recognizing oneself in the other. The other's corporeal existence does realize and effectuate — however inadequately — the other's I-ness; it is the only possible way in which the other can exist for others. In order to appear at the same time as other *and* as self-consciousness, an ego should *manifest* the difference between his immediate, corporeal “being-there” and his self-conscious distance, the “freedom” of his being a conscious, not merely corporeal, self.

The difference between “freedom” (*Freiheit*) and its immediate being-there (*Dasein*) must be understood in this context as the difference between the essence of self-consciousness (its being self-

⁴³ Real fights and just or unjust violence, such as robbery or murder, have their place in the domain of (objective) spirit (specifically in right and ethical life), not in phenomenology.

consciously different from the animated or “en-souled” body) and its embodiment. Only if both egos can express their specific (not yet spiritual) transcendence over their corporeality, can they recognize one another as identical *on the level of self-consciousness* (though not yet on the higher level of spirit). If both remain caught up in their corporeality, however, they remain instances of a special kind of non-rational animal (A 353).

Since the goal of the struggle is that “I know myself in the other as myself” (A 353), the struggling self-consciousnesses (or egos) must risk their own and each other’s lives, but they must neither kill one another nor die. In risking one’s life, the difference between immediate being-there (or life as such) and being an I or self comes to the fore (A 354-355). Courage shows that an opponent prefers freedom over an unfree life, while cowardice indicates a preference for life over freedom. If one of the consciousnesses prefers life and manages to preserve it, this does not indicate that he is more than a living being; he therefore cannot be recognized as a free self that transcends his animality. If the one who risks his life to save his freedom wins the fight but does not kill his opponent, he takes away the other’s freedom and makes him his servant.⁴⁴ The immediate relation of two self-consciousnesses equally steeped in life and corporeality has then been transformed into the inequality of a masterly and a servile self-consciousness (A 355).

The dimension in which the self-affirmation of the masterly I is effectuated remains dominated by corporeal needs and concern for life. However, the relationship between self-consciousness and its object (the other self-consciousness) is now governed by transformative, not destructive manipulations, such as are expressed in service, labor, acquisition, maintenance, and production. This relation binds together the master and the servant: the servant depends upon the master to survive, while the master uses the servant to satisfy his desires. A utilitarian kind of commonality

⁴⁴ The text of Enc A 355-357 does not mention a slave (*Sklave*), but opposes master (*Herr*) and servant (*Knecht*), mastership and servitude. However, the Aristotelian influence (see next note) seems obvious, though the influence of modern authors such as Hobbes, Leibniz, Rousseau, Wolff, and Kant must also be considered. See K. Rothe’s article on *Herrschaft und Knechtschaft*, in *Hist. Wörterbuch*, vol. 3, col. 1088-1096.

(*Gemeinsamkeit*) between an independent and a dependent I has emerged (A 356).

Hegel is obviously retrieving Aristotle's analysis of the master servant relationship, which for Aristotle was a constitutive principle of the household.⁴⁵ Hegel likewise emphasizes the mutual benefit and commonality of the union between a free master and the "*animal sapiens*" who serves him as an appropriate *organon*. He shows how the master-servant relationship is the appearance of a more fundamental principle concealed within it, and how it must therefore develop into a more adequate expression of that principle.

The master's object is his servant; what he sees is someone whose attachment to life is subordinated to the master's freedom. The master sees his own independent being-for-himself as objectified and thus expressed in another singularity. In seeing the identity of the singulars involved, he discovers that his own free self-consciousness, as sublated singularity, reveals itself as common to both — and in principle to all — self-consciousnesses. He has discovered the I's universality (A 357).

The servant, likewise, discovers the essential universality of self-consciousness. Through his service, he submits his life and his choices to the will of the master, who has transcended the selfishness of corporeal needs. This submission (his "fear of the lord") is "the beginning of wisdom,"⁴⁶ because it transcends the level of immediacy and singularity in needs and preferences by recognizing an ego that is not confined to the private selfishness of singular individuals.

The recognition of this supra-singular and supra-corporeal, and therefore free, self-consciousness is "*universal self-consciousness*" (A 357). Its description is given in A 358 and its fundamental identity with *reason* is explained in A 359.

The name "universal consciousness" indicates two dimensions, which have become united: (1) the concrete identity of self-consciousness with itself; and (2) the essential identity of all self-consciousnesses with one another, an identity that is known and

⁴⁵ Aristotle, *Politics* I, 2-8 (1252a24-1256b39) and *Oeconomica* I, 5 (1344a23-1344b21).

⁴⁶ Cf. Psalm 3:10, "The fear of the Lord is the beginning of wisdom."

expressed by these same self-consciousnesses in mutual recognition of their identity. The first moment realizes the goal that was indicated at the beginning of the phenomenology (A 329-333) and repeated at the beginning of its second part (A 344-347). While the text does not explicitly display the "inter-conscious" dimension that has developed in the transition from immediate to concrete self-identity, this dimension, expressed in the second moment, is retained as co-constitutive of the first, while the first is a necessary condition of the second. To be conscious that one is not merely an animal but a human mind entails relations with other self-consciousnesses. However, as a result of the process in which this discovery is made, the concrete *identity of the I with itself is the ground (or essence or truth) of the mutual recognition that is the appearance of that ground*. The "inter-conscious" structure is repeated on all levels of human existence and culture, but each level has its own specificity and the general structure displays modifications accordingly. For example, in right, intersubjectivity has another meaning than in religion. The phenomenological structure and its sublation in a higher and more fundamental unity is retained on all higher levels, but on every level its specific transformation must be analyzed anew.

In his Remark on Enc A 358, Hegel calls universal self-consciousness the *substance* of all spiritual formations. All the examples he provides have a social aspect: family, fatherhood, state, love, friendship, courage, honor, and fame. Concrete self-identity, i.e., to be actually at home with oneself, is the "substance" (and ground and essence) of all modes of being at home in communal or intersubjective relations. However, in his Remark on Enc A 355, repeated in B and C 433, Hegel warns the reader that the phenomenological unfolding of self-consciousness (or "I") through "struggle," the relation between "master and servant," and "recognition" should *not* be understood as a genealogy of *right*. The violence involved in the fighting and subjection analyzed here "is not the ground of right." To clarify this remark, Hegel distinguishes three levels: (1) the situation of self-consciousness as completely immersed in the (vital) desires of a singular living being; (2) the situation of self-consciousness after it has discovered that it is universal, i.e., neither completely ruled by desire, nor confined to its own singularity; (3) the dimension of right proper.

The dialectic of struggle and the master-servant relationship forms the transition between the first two levels, while the transition between the second and the third level lies in the entire philosophy of intelligence and will (including all lower forms of knowledge and spiritual striving), as we will see in the next chapter.

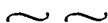
The development of self-consciousness, including the plurality, commonality, and mutual recognition it involves, is a first *appearance* (*Erscheinung*) of the true human community, which is found in the state. The political version of this fundamental structure must, therefore, be carefully distinguished from the phenomenological one.

It is not easy to conceive of the dimension of self-consciousness as distinct from the awareness that belongs to human animality ("the soul,"), on the one hand, and spiritual reflection, on the other. Many misinterpretations arise from this difficulty. In addition, by employing terms that properly belong to different dimensions, Hegel has not facilitated the task of his interpreters; however, he provides some clues through his systematic arrangement and several meta-theoretical remarks, which have guided my explanation.⁴⁷

⁴⁷ The present interpretation of *Anerkennung* is based on the text of the Heidelberg *Encyclopedia*, which was not fundamentally modified in the second and third editions. For an interpretation of the phenomenology as presented in the *Encyclopedia* of 1830, see Gerhart Schmidt, "Die zweite 'Phänomenologie des Geistes' als philosophiehistorische Kritik," in *Eley, Subj. Geist*, pp. 155-172; Edith Düsing, "Genesis des Selbstbewußtseins durch Anerkennung und Liebe: Untersuchungen Zu Hegels Theorie der konkreten Subjektivität," *ibid*, pp. 244-280; and my "Selbstbewußtsein-Vernunft-Freiheit-Geist," *ibid*, pp. 280-312. The basic book on this issue with regard to Hegel and others is Edith Düsing's *Inter-subjektivität und Selbstbewußtsein: Behavioristische, phänomenologische und idealistische Begründungstheorien bei Mead, Schütz, Fichte, und Hegel* (Köln: Dinter, 1986). For the various phases of Fichte's and Hegel's analyses of intersubjectivity, see pp. 179-377. See also Vittorio Hösle's interpretation of Hegel's phenomenology and critique of Hegel's conception of intersubjectivity in his impressive *Hegels System: Der Idealismus der Subjektivität und das Problem der Intersubjektivität* in two volumes (Hamburg: Meiner, 1988), vol. 2, pp. 356-388 and vol. 1, pp. 123-127, and 263-275. See in addition the very instructive discussion of intersubjectivity by Klaus Brinkmann in "Intersubjektivität und konkretes Allgemeine," in Dietmar Koch and Klaus Bort (eds.), *Kategorie und Kategorialität: Festschrift für Klaus Hartmann* (Königshausen: Neumann, 1990), pp. 131-167. On *Anerkennung* in Hegel's texts of the Jena period, see Ludwig Siep's *Anerkennung als Prinzip der praktischen Philosophie: Untersuchungen zu Hegels Jenaer Philosophie des Geistes* (Freiburg: Albert, 1979). A careful study of "Mastership and Servitude" in the *Phenomenology* of 1807, which sets the record straight with respect to Kojève's misinterpretation,

Universal self-consciousness is the self-awareness of singular selves who transcend their immediate, corporeal, and vital involvements, and thus recognize one another as "free" and "universal" (A 358). Freedom and universality are thus deduced, but their full meaning cannot yet be grasped. The concept of freedom in its rational, Kantian sense emerges only at the end of the psychology (A 398-400), while its concretization demands the entire philosophy of its objectification in "right" and the self-awareness reached in art, religion, and absolute knowledge. The universality to which phenomenology leads is that of the transcendental I as unifying all singular egos in the recognition of its subjective-objective identity. By governing all instances of the *cogito*, it coincides with *reason*, which encompasses all (onto)logical structures that dominate the mind. As both consciousness of objects *and* awareness of the fact that the object, *au fond* and essentially, is identical with consciousness, the mind knows the coincidence of its own logical constitution and the ontological constitution of the "objective" reality.

The identity of consciousness and self-consciousness which is the result of Hegel's phenomenology, confirms the idealism of his position (A 358-362). As the awareness of its being rational, the I has developed into the consciousness of its own fundamental identity with reason and truth. This truth, as conscious of itself, is called *spirit* (A 362).



For the preceding explanation, the following sections are particularly relevant:

Enc A 359 (last section of b. "Self-consciousness," §§ 344-359):

This unity of consciousness and self-consciousness has first the singular self-consciousnesses [or I's] existing as being for themselves in opposition to one another [namely, in their struggle]. But

has been given by two of the best French Hegel scholars: Gwendoline Jarczyk and Pierre-Jean Labarrière in *Les premiers combats de la reconnaissance* (Paris: Aubier, 1987). On the central role of self-consciousness and subjectivity in Hegel's entire work, see Klaus Düsing's classical study *Das Problem der Subjektivität in Hegels Logik: Systematische und entwicklungsgeschichtliche Untersuchungen zum Prinzip des Idealismus und zur Dialektik* (Hegel-Studien, Beiheft 15), Bonn: Bouvier, third, augmented edition, 1995.

their distinction is, in this identity, the wholly indeterminate diversity, i.e., a distinction that is none. Their truth is, therefore, the unmediated universality and objectivity in and for itself of self-consciousness: *reason*.

c. *Reason*

Enc A 360

The truth in and for itself, which reason is, is the simple identity of the concept's subjectivity with its objectivity and universality. The universality of reason has therefore as much the meaning of the *object* that is given in consciousness, as [that of] the *I* in self-consciousness.

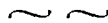
Enc A 361

As pure singularity of subjectivity, reason is therefore determined in and for itself, and therefore [it is] the certainty that the determinations of self-consciousness are as much objective, [namely,] determinations of the essence of things, as its own thoughts.

Enc A 362

As this identity, reason is the absolute *substance*, which is the *truth*. The characteristic *determinacy* that reason here has — after both the object that was presupposed against [the] *I*, and the *I* that was selfish against the object, have sublated their unilaterality — is the substantial truth, whose determinacy is the pure concept that is for itself, *I*, the certainty of itself as infinite universality. This knowing truth is *spirit*.

In four sections Hegel reveals the secret that governs the process of recognition: the undivided simplicity of the true “soil” (Gr1 4) or “substance” from which spirit emerges, namely, *reason* as realization of the concept that encompasses all forms of multiplicity, relation, contradiction, or opposition. Coinciding with the entire realm of objectivity, the *I* of (self)consciousness has been transformed into a *rational I*, i.e., into *spirit*, in the emphatic sense in which the philosophy of subjective spirit culminates.



In Enc A 363, the philosophy of subjective spirit reaches the level where spirit can manifest its rational essence without concealing any of its potentialities. However, because the analysis remains confined to the framework of *subjective spirit*, it cannot yet show

any specific content, but only formal aspects. Its content must wait until the unfolding of its concretizations in the dimensions of objectivity and absoluteness.

Spirit (Enc A 363)

As noted above, the word "spirit" is ambiguous. Not only is it taken in (1) the abstract sense determined at the beginning of the philosophy of spirit in its most general sense (Enc A 299-477), as well as in (2) the restricted sense of the psychology, at which we have arrived in § 363, but it can also be used to indicate (3) the entire dimension of subjective spirit (§§ 307-399), (4) the world in which spirit is objectified as objective spirit (§§ 400-452), and (5) the spiritual phenomena of art, religion, and science (§§ 453-477). As a name for the One that is the Whole, "Spirit", can be replaced by other words, such as being, idea, reason, freedom, God, or absolute knowing. "Spirit" thus indicates a wide-ranging "analogy" of spiritual realities that cannot be distinguished unless we determine the place and the function of each in the overall constellation of Hegel's philosophy.

Although spirit appears under a great variety of names, its most appropriate name is "absolute (self-)knowledge," so long as this expression is understood to include all other names for any reality or thought, beginning with "being," with which the logic commences. Comprehension of "the spirit" presupposes that we are aware of its relations to all other thoughts and realities within the total movement in which it reveals, expands, and gathers itself. The meaning of every concept in which the spirit manifests and conceals itself depends on its prior and posterior relations within the range of concepts that temporalizes the philosophical discourse in which the spirit displays its multifarious universality. The truth of this temporal, and therefore finite, succession is the eternity of the spirit's infinite self-knowledge.

To facilitate comprehension of his philosophy as a philosophy of spirit, Hegel presents the spirit's ongoing self-actualization as the metamorphosis of an initial concept that contains the entire universe in the most indeterminate way: *being*. In other words, we can state that the presence of the spirit in all things is most clearly revealed in those phases of being's unfolding that Hegel himself

most often presents as the third phase following a first, immediate, and a second, "contradictory" or aporetic phase. In addition to "being" (A 39), some proper names of the spirit are then "concept" (A 109), "idea" (A 161), "spirit" in general (A 299), "subjective spirit" (A 308), "reason" (A 300), "spirit" in the sense of the psychology (A 363) and "absolute spirit" as "absolute (self-) knowledge" (A 472). All initial concepts of Hegel's developments can also be interpreted as names of the spirit, insofar as they contain the third phases as their still concealed secret. "Essence" (A 63-64), "substance" (A 98), "subjective concept" (A 108, 112), "soul" (A 308), etc. may then also be understood as names or pseudonyms of spirit.

The second or intermediate phases of Hegel's deductions conceal rather than reveal the truth of the spirit, however. For example, spirit does not clearly reveal its truth in its contradictory and polemic manifestations, such as nothingness, otherness, difference, opposition, mere appearance, materiality, consciousness, contract, crime, war, and so on. While the entire logic is oriented toward the overcoming of all dualisms, contradiction is a necessary and proper element of the spirit itself; however, at the same time, it continually testifies to the truth — which it also enacts — that no difference is genuine unless it is integrated into the encompassing *self-differentiation* of a final *self-identity*. Hegel's dialectical unfolding of the spirit's life is therefore guided by two interwoven vectors: a vector of growing unity, and a *subordinate* vector of mediation thanks to which all splits and oppositions are sublated into the uniting movement of the first vector.

Logic

1/3: Being—>Becoming—>Concept—>Idea—>Subjective Spirit—>
 2: Nothing—>Relation —>S<->O->Nature—————>

Philosophy of Spirit

1/3: Seele—————>Spirit—————>Abs. Spirit
 2: —————>Consciousness————>Obj. Spirit

This interpretation of the *Grundlinien* will show how nature, consciousness (including recognition), and "right" (including respect,

morality, economics, and politics) must be understood as *mediating* moments and appearances of the spirit, *not* as *adequate* revelations of its essence or idea. Religion and philosophy are “more true” than ethics and politics; to understand the latter as absolute or autarchic realities is to overlook their inner contradictions.

The Concept of Spirit (Enc A 363-366)

The definition of “spirit” provided in A 363 is Hegel’s interpretation of Aristotle’s “living being having *logos*”⁴⁸ and of its scholastic version: *animal rationale*. Spirit includes *soul*, the principle of life, and *reason* (as Hegel translates *logos*), which is the “specific difference” distinguishing humans from other living beings. Having deduced reason in Enc A 360-362, Hegel is now able to give a complete definition of what it is to be human, with an emphasis on spirituality.

His interpretation of the spirit’s rationality (*Vernünftigkeit*) differs from Aristotle’s “having *logos*” in several respects. The first is that Aristotle could not yet produce a theory of consciousness in the modern, post-Cartesian sense of the word. Hegel has introduced reason as the overcoming of the opposition between subject and object, an opposition typical of the modern philosophy of consciousness and self-consciousness. Reason is the name for the perfect unity of subject and object; it actualizes and grasps the fact that the (self-)conscious subject and its object (which can also be another self-consciousness) are one and the same reality, namely, the actuality of the idea. As rational, spirit is aware that all objectivity is an element of its own spiritual life and a product of its own spiritual activity. Thus, all determinations of spirit that are revealed by further philosophical developments are drawn from the spirit’s own life, and are not externally derived predicates. For spirit, there is neither an “outer world” nor “other minds.” It is as wide as the universe and it creates and determines all reality. Of course, a human individual is neither the origin nor the totality of all beings, but insofar as it is spiritual, it is a finite realization of the infinite, sharing the life of that which must be called universal and

⁴⁸ Aristotle, *Nicomachean Ethics*, 1139a1-6.

all-encompassing in the strictest sense of these words. Spirit is "nothing other than" the self-unfolding of "its own being"; it "relates to nothing other than to its own determinations" (A 363).

Although the spirit, as rational, is not opposed to alien objects, it is confronted with its own determinations. The fact that it *finds* determinations in itself manifests a non-coincidence of the spirit with its immediately given determinations; but because there is no "outside" for the spirit, its determinations cannot come from another reality. Its determinations must, therefore, be understood as "posited" (*gesetzt*) by the spirit itself. In itself (*an sich*), spirit is the identity of its positing and its being posited; as such, it is the reality of infinite reason and the union of its subjective possibility with its rational objectivity.

The task of an introduction to the philosophical psychology (Enc A 363-365) consists in a general "determination" of the new dimension reached through the phenomenology and the (still abstract) concept of reason. This new dimension is most clearly revealed in intelligence (*Intelligenz*) and free will (*voluntas*), but it also encompasses the other key concepts of theoretical and practical philosophy. In § 366, Hegel indicates how the theoretical and practical realizations of spirit differ from one another. One would, therefore, assume that he would not anticipate this distinction in the introductory sections (A 363-365), but rather restrict himself to generalities. However, this is not the case. In his introduction to the entire philosophy of the spirit (A 299 ff.) he avoids any subordination of either the practical or the theoretical, preferring to use freedom as a general characteristic of spirit; in the three sections of his introduction to the psychology (A 363-365), however, he characterizes the spirit nine times as knowing (*Wissen*), once (A 364) as grasping (*erfassen*) and comprehending (*begreifen*), and only twice as free (A 364 and, as "absolute freedom of its knowing," in A 365). Further development, especially in §§ 366 and 387, shows that intelligence and will are two sides of the same radical principle, but Hegel continues the intellectualist tradition that has prevailed in Western philosophy, according to which practical reason presupposes theoretical reason, though he retains a certain ambivalence on this point. The highest perfection of spiritual life is reached in contemplation, not in justice or love. This can be seen in the subordination of the objective (aspects of)

spirit to the absolute (realization of) spirit and it is also manifest at the beginning and the end of his psychology. In its first section (A 363), Hegel determines the concept of spirit as the (abstract, formal) concept of *knowing*, thus anticipating the structure of absolute spirit, whereas, in later sections, he deduces practical spirit from that abstract self-knowledge. He then unfolds the practical dimension of spirit in an analysis of objective spirit, after which he returns to the concretization of the theoretical in absolute self-knowledge, thus closing the circle from self-knowledge-in-itself to knowledge in-and-for-itself.

Enc A 363:

Spirit has become manifest as the unity of soul [object of the anthropology] and consciousness [object of the phenomenology], [i.e.,] of that [the soul's] simple immediate totality and this [consciousness's] knowing. This unity [the spirit] is not limited by any object and is no longer [caught] in [a] relation [to anything else]; instead it is [the] knowing of the simple, neither subjective nor objective, totality. The spirit originates, therefore, from its own being only and relates to its own determinations only.

A 364:

The soul is *finite* insofar as it is determined immediately or by nature; consciousness [is finite] insofar as it has an object; spirit [is finite] insofar as it *has* immediately a determination *in itself* or insofar as a determination is *posited by it*. In and for itself spirit is the absolutely infinite, objective *reason*, which is its *concept* and whose reality is *knowing* (*Wissen*) or *intelligence*. The finitude of spirit consists, therefore, more precisely in the fact that knowing has not grasped (*erfaßt*) the being-in-and-for-itself of reason. This [scil., reason] is, however, infinite only insofar as it is absolute freedom, and therefore *presupposes* itself as immediate being- determined *before* its knowing, making itself thus finite, while being the eternal movement of sublating this immediacy and of comprehending itself.

A 365:

The advancement of spirit is *unfolding* (*Entwicklung*), because its existence, *knowing*, its being determined in and for itself, is the end or the rational (*das Vernünftige*), while the transposition (*Übersetzen*) is merely this formal transition (*Übergang*) into manifestation. Insofar as *knowing* is infinite negativity, this transposition in the concept is *creation* (*Erschaffung*). Insofar as knowing is initially only *abstract* or *formal*, spirit is not adequate to its [own] concept in it [scil., that abstract knowing], and its goal is to produce the absolute fulfillment and the absolute freedom of its knowing.

As rational, the spirit has integrated the finite forms of subjective spirit (soul and self-consciousness) into its own subjective-objective or absolute unity. Herewith the idea has fully realized itself on the level of its *formal* possibilities. This means that there is nothing outside spirit, the spirit is universal and infinite in the most emphatic and absolute senses. It has no other relation than the relation to its own determinations; but it has not yet unfolded itself in the *content* of the concrete universe. Since determination and relation imply moments of opposition and finitude, the infinite spirit does not exclude but encompasses its own finitude, which therefore is posited by itself. Having the structure of the concept, the infinite determines, particularizes, and singularizes itself in order to actualize and manifest its full potential to itself. It is not an *unmoved* mover of other things, but is, on the contrary, "the eternal movement" of self-finitizing self-actualization. In agreement with the general definition of spirit in A 300, Hegel calls the *telos* or result of this movement its "absolute freedom" (A 364), but he also describes it as a *Wissen*: the spirit is the infinite knowledge or comprehension of its own fully developed and displayed wealth. It is impossible not to recognize in this image of the Absolute a dynamic, neoplatonizing transformation of Aristotle's famous passage on "the God" as "knowing of knowing" (*noēsis noēseōs*), which Hegel, in the later editions of the *Encyclopedia*, quotes at the conclusion of his system.⁴⁹

The further development of Hegel's philosophy of spirit, which has now reached its appropriate foundation or "soil," consists in the gradual unfolding of the spirit's self-determination through aspectual manifestations of its reason-ability, which it then transcends and integrates as moments of its own life. As *Wissen*, this life is not a passive reception; rather, it is a position, production, and creation (*Erschaffung*). The spirit's eternal movement appears in Hegel's systematic discourse as a development or unfolding (*Entwicklung*) from its emptiest to its most fulfilled actuality, which is found in the absolute freedom of perfect self-knowledge as the highest praxis of creative and self-relevatory "actuality."⁵⁰

⁴⁹ Cf. GW 19, p. 416, where *Metaphysics* XI, 7 (1072b18-30), with minor changes, is quoted from Casaubon's edition of Aristotle's *Opera* (Leiden, 1590), which Hegel possessed. See also GW 10, pp. 549-550 and above note 22.

⁵⁰ See above Chapter One and note 73 (p. 92).

As underlined again in A 387, the unfolding of spirit as *subjective* spirit can only reveal the *formal* side of its activity and productions. The word “unfolding” (*Entwicklung*) in A 365 is used to emphasize that the remaining task of philosophy consists in the further explanation of the *form* and (by unfolding the spirit as objective and absolute) a deduction of the *content* that is contained in the abstract or merely formal concept of spirit. As far as the subjective (moment of the) spirit is concerned, the definition of spirit in general, as provided in A 299 ff., is rendered more concrete, though we remain focused on its formal aspects until the end of the chapter (A 399). Subjective spirit is a concept that gives *Dasein* (A 301) and *Existenz* (A 365) to itself, while *manifesting* its own riches (A 301 and 365); in this *revelation* (A 302) it *creates* reality (A 302, 365), thus “translating” or “transposing” (A 365) its concept into existence.

The main differentiation of the spirit, insofar as it is still subjective and formal, is introduced in A 366 as the distinction between its theoretical and practical aspects. The way in which the distinction is presented suggests that the practical realization of the spirit as *will* can be derived from its theoretical realization as *intelligence*. Both intelligence and will are characterized as “free,” but the preceding sections (363-365) stress the role of knowledge in the spirit’s self-liberation to the extent that the will seems secondary in the (self-)constitution of the spirit as free. The analysis of later phases in the development will determine whether this impression is correct.

Enc A 366:

The way [of the unfolding] of spirit is to be a) *theoretical*, [i.e.,] to deal with its immediate determinacy and to posit this as its own — or to free its knowing from presuppositions and therewith from its abstraction, and [thus] to make that determinacy subjective. Insofar as knowing is determined in and for itself, or is in the mode of *free intelligence*, it is immediately b) *will*, *practical spirit*, which at first wills immediately and frees its own self-determination (*Willensbestimmung*) from its subjectivity, so that it is as *free will* and *objective spirit*.

Hegel’s analysis of the spirit’s intellectual possibilities (Enc A 367-387) is governed by the concept of reason (or rationality) as complete identity of the subjective and the objective moment of the spirit, which is the universe. According to Hegel, the full

realization of reason is achieved in the highest form of intelligent activity: thinking as comprehension. At this highest level, one comprehends that the determinations of the objects of thought do not differ in any respect from the determinations of this same thought as the production of adequate thinking. A true insight coincides perfectly with the true reality of the issue that is comprehended. However, less insightful forms of theoretical activity, such as feeling, visual perception, imagination, or representation, do not present their objects in an equally transparent form. They remain, at least to some extent, puzzling, surprising, obscure. Even if we are already convinced that all beings are concrete instances of the rational identity of subject and object that is constitutive for the universe in which we live, this conviction remains abstract as long as our comprehension has not reached the level of transparency that is only given in a fully true philosophy.

The most primitive or "immediate" form of inadequate thinking is found in the "finding" of something given in *Empfindung* (sensation): the object toward which my spirit is directed seems to imprint itself on me, making my spirit wholly passive or receptive. Other more or less passive forms of cognitive relationships present themselves as intermediate between this most immediate form and active thinking as comprehending. The unfolding of spirit through its own activity is a progressive self-liberation of the spirit. From its most alienated (though still self-realized) mode of relating to reality to its full autonomy (achieved in the determination of objective truth), the spirit displays, step by step, all the possibilities of appropriating all things, which, though initially appearing to be external, in fact turn out to be nothing other than determinations of the spirit itself.

Whereas the unfolding of the spirit's theoretical possibilities proceeds from the relation between a seemingly passive subject and an imposing object to their coincidence in reason, the unfolding of the *will* begins with the production of passive objects and proceeds toward the realization of an objectivity that, as perfect objectification of the subject in a free world, is no longer opposed to but instead identical with the truth of the will.

The two parts of Hegel's psychology, as developed in 1817, are thus two deductions that demonstrate the same underlying truth from opposite perspectives: in spirit, subject and object are one

and the same (rational, spiritual) reality, the name of which is *freedom* or “free spirit.” Does this mean that freedom, which was presented as the main characteristic of spirit in its general definition (A 399 ff.), is recognized in A 366 as more fundamental than the distinction between theoretical and practical spirit, and therewith also as their ultimate and fundamental unity? This appears to be contradicted by the emphasis on knowledge in A 363-365. It also seems to conflict with passages like, for instance, Gr1 29, where Hegel uses “freedom” (*Freiheit*) as a synonym for right.⁵¹

The Identity of Intelligence and Will (Enc A 366-388)

As rational, or “reason-able,” spirit is the fundamental identity of “intelligence” (A 368-387) and “will” (A 388-389).

Thinking (*Denken*) is the highest form of theoretical activity, encompassing sensation (*Empfindung*), intuition (*Anschauung*), representation (*Vorstellung*), imagination (*Einbildungskraft*), memory (*Gedächtnis*), and intellect (*Verstand*). As the activity of the intelligence (*Intelligenz*), thinking produces judgments (*Urteile*) and networks of judgments, but it reaches its completion in comprehension (*Begreifen*). Only a concept (*Begriff*) can grasp the truth as the unity of all the elements that are related (but not

⁵¹ Hegel struggled with the question of the exact relationship between intelligence (theoretical spirit), will (practical spirit), and free spirit. In the first two versions of the *Encyclopedia*, the synthesis of intelligence and will is not found in the philosophy of subjective spirit but in the concept of objective spirit, which is *the will as free intelligence* (A 400). In 1827, there is a hesitation: in the last section (B 481) before Hegel introduces the objective spirit (in which he maintains the concept of the will as free intelligence) he calls freedom the “actually free will,” but does not present this as the highest form of subjective spirit. The identification of the actually free will as objective spirit, together with the thesis that the absolute spirit is the actualization of intelligence, shows that the practical is subordinated to the theoretical. In the third edition of the *Encyclopedia*, Hegel clearly indicates that (c) free (subjective) spirit (C 481) is the synthesis of (a) the (subjective) theoretical spirit (C 368-387) and (b) the (subjective) practical spirit (469-480), while objective spirit (C 483 ff.) introduces a new dimension: the dimension of the actualization of the formal possibilities of spirit unfolded in the philosophy of subjective spirit. However, Hegel did not modify the relationship between objective spirit and absolute spirit. Although his correction seems to have made intelligence and will equal in dignity, the actualization of the will in objective spirit remains subordinate to the actualization of intelligence in absolute spirit. Demonstration and details can be found in *Hegels prakt. Phil.*, pp. 20-26, 90-96, and *Selbsterkenntnis*, pp. 38-57.

united) by the correct judgments (*Urteile*) pronounced about them. In a true concept "*what is thought, is; and what is, is only insofar as it is thought*" (A 384, emphasis added). Comprehension is the way in which (the spirit as) intelligence possesses the determinations of its object as determinations of its own thought. The determinations that are initially given in sensation but are progressively integrated through intuition, imagination, memory, and intellect (*Verstand*), are assimilated by active intelligence, which, in the end, recognizes them as its own productions. What at first appeared external thereby determining a receptive subject, has revealed itself in the thinking process to be the product of thought itself. Through theoretical (re)construction, intelligence transforms the givenness of sensation into determinations of itself.

By transforming the ways in which an object determines intelligence into products of its own activity, thinking produces "comprehension" (*Begreifen*, *Begriff*). The task of thinking is to determine the truth or intelligibility of the objects that present themselves to the mind. But what is the truth of an object? What are the determinations that constitute it as this particular object? Retrieving the classical tradition expressed in the scholastic adage "*esse est intelligibile*" (being is intelligible) and "*ens et verum convertuntur*" (being and true are convertible), Hegel replies that the (true) actuality (*Wirklichkeit*) of an object is nothing other than its rationality or intelligibility. Adequate comprehension (i.e., a perfect concept of the object) is therefore nothing other than the truth of that object (as it is presented by thought to itself). Insofar as the intelligibility or "reason-ality" (*rationalitas*, *Vernünftigkeit*) or the inherent reason (*Vernunft*) of the object (i.e., the necessity of its determinations), is captured in true thought, its actuality depends on thinking. On its highest level, i.e., on the "level" of its truth, intelligence is not passively determined by impressions, feelings, or other non-rational influences, because it is the active determination of all that is rational. The entire universe (all being) is, in truth (i.e., once it is comprehended) the exhibition of universal thought. If this retrieval of the neoplatonic *Nous* as *kosmos noētos* and totality of the *ousiai* is not a metaphysical principle, what then is?

In Kantian terms, Hegel's basic postulate can be characterized as the conviction that all *a posteriori* givenness is only the appear-

ance of what is, in fact, *a priori* rationality. He rejects the duality of *a priori* forms that are imposed on *a posteriori* material (A 386). Nature, materiality, experience, etc., are revealed (*offenbart*) to be the appearance of the spirit's own productive life.

At this point, we must make a distinction between the possibilities of human intelligence and those of absolute spirit. It is obvious that humans cannot create the natural universe. In the fullest sense, the characteristics of "creation" and "revelation" (A 302) belong only to the absolute and infinite spirit. However, the power of human thought is able to render the totality of beings so transparent that their existence, character, and composition show themselves to be necessarily such as they are. Though we cannot create the universe, we know why it is the way it is, and that it cannot be essentially otherwise. In theory, we can (re)construct the "ideal" form and content of creation according to its rational necessity.

The transition from sensible receptivity to comprehensive insight is a process of liberation. Thinking discovers that all that is given is in fact constituted by true thought. Thus, it discovers itself as the productive source to which all true reality owes its existence. Instead of being bound to sensory immediacy, intelligence is the universal principle of determination; it is *free*.

The theoretical realization of reason (i.e., the rational or "reason-al" character of spirit) has led us to understand comprehension as the self-determination of the spirit in the form of intelligence. As theoretical, spirit provides its own content by determining its own thoughts. In principle, this content encompasses the entire universe. With this insight, the deduction has reached the point that separates and unites the analysis of spirit's formal possibilities and the content that belongs to its form. Before the content of the theoretical spirit can be analyzed, however, its other form, i.e., the spirit's practical side, must be unfolded.

The possibilities of the spirit as practical are possibilities of the *will*. Is the will a form of spirit other than intelligence? If intelligence is discovered to be free self-determination, how can the will then be distinguished from it? It is indeed Hegel's thesis that intelligence and will are fundamentally the same: spirit as self-determining or free. Both intelligence and will are free insofar as they actively determine the reality with which they are concerned. The will actualizes its projects and intentions by giving them

worldly reality; intelligence determines the worldly reality insofar as it is rational (*vernünftig*) or "actual" (*wirklich*). Both are reason *as* (identical with the) actual, or actuality *as* (identical with) rationality.⁵² Their difference lies in the fact that they proceed from opposite poles of one selfsame actuality: *theoretical* self-determination begins with the seeming dependence of thinking on given findings (*Empfindung*), but transforms this appearance into the realization of its own productive thoughts; the *will* begins with its own subjective purposes and ends, which it then realizes in the objective order of a rational world. *Practical* self-determination actualizes reason as the identity of subject and object from the perspective of the subject that must become a world, whereas *theoretical* self-determination actualizes the same rationality by transforming objects into thought. Reason actually exists as simultaneously theoretical and practical. The will can neither oppose intelligence as a blind or irrational force (as it is practical *reason*) nor can it dominate intelligence, for instance as a (more) infinite capacity. Intelligence and will, together, actualize the spirit as rational, and thus as actual. On the deepest level of self-determination or freedom, intelligence and will cannot be distinguished, but insofar as their activities occur in the finite world of reflection and deliberation, they differ. The proof of their fundamental coincidence, provided in A 387, lies in the fact that the determinations of thought are *ends*: thinking necessarily aims at the transformation of its object into a transparent concept; the determination by which it determines the given is the outcome of a dynamism that inhabits the spirit as intelligence.

In sections A 384-388, which provide a transition from theoretical to practical spirit, Hegel continues to use the word "free" to characterize the radical self-determination that constitutes spirit on the highest level of "subjective" (or formal) spirit. Freedom and spirit again seem to coincide, and their identity generates both thinking and willing as equally supreme activities. This view is also maintained in the first Remark on A 368, but it remains to be seen whether it is maintained in further developments.

⁵² The identity of the actual with the rational, expressed in the famous dictum of the Preface to the *Grundlinien* ("What is rational is actual and what is actual is rational"), should therefore not surprise any connoisseur of Hegel's epistemology. Cf. *Philosophy and Politics*, pp. 92-103 and 130-134.

The preceding explanation of Hegel's conception of the unity and difference of theory and practice is my interpretation of the brief demonstration given in Enc A 386-387, a translation of which follows:

Enc A 386 (second half):

In its sensible finding [of the given] (*Empfindung*), the intelligence's *being-determined* (*Bestimmtheitssein*) was, at first, as immediate material (*Stoff*); as *comprehending* [however], the *intelligence* has its *being-determined* in itself, as its very own, and therewith not as *being-determined*, but rather as *determining*.

Enc A 387:

Because thinking is the free concept, it is also free in its *content*; the *determinacy* of reason is the subjective intelligence's own [determinacy], and, as determined, it is its content and being-there. The thinking subjectivity is thus *actual*; its determinations are *ends*; it is *free will*.

Sections 386 and 387 are the last sections of "The Theoretical Spirit." The first section of "The Practical Spirit" (A 388) that follows suggests a conception of the relation between intelligence and will that differs from the one explained above. Here the will is not presented as one of two branches of spirit ranking equally, but instead as the "fulfillment" or realization of intelligence in singular wills. As a singular existence in which spirit determines and possesses itself, the will is the concrete fulfillment that transforms the (abstract) *concept* of spirit (which is intelligence as not yet producing changes in the world) into the *idea* of rational spirit (i.e., the concept of spirit as *being-there* in a free world). Intelligence and will are distinguished as two aspects of the concept of spirit: the abstract, absolute, universal, formal, and subjective moment, and the concrete, existential, singular, and objective moment, respectively. Their relation to one another parallels the relation of the logical *idea* to *nature* and the relation of *subjective spirit* to *objective spirit*. The objectification of subjective spirit in the real world (i.e., the world of "right") has its roots in the will as "fulfillment" of intelligence. In the framework of Hegel's (onto)-logic, this means that the theoretical moment plays the leading role in the development of spirit: the objective side of its being-there as a concrete, material, and historical world is necessary for the spirit's becoming for itself what it is in itself, but it is

dependent upon and subordinate to the *first* moment of the spirit's fundamental identity of its theoretical and its practical sides and it will be shown to be only a subordinate moment of the third stage of the spirit's development, which is its completion in absolute knowledge.⁵³ The supremacy of the theoretical will thus becomes manifest in the transition from the philosophy of right (or "objective spirit"), dominated by the will, to the philosophy of absolute spirit as theoretical actualization of its possibilities in art, religion, and philosophy.

The following is the text of the first section of "The Practical Spirit," on which the above interpretation is based:

Enc A 388:

However, as intelligence, spirit at first is abstract *for itself*, as free will it is *fulfilled* (*erfüllt*), because it is as concept, as determining itself. This fulfilled *being-for-itself* or [this] *singularity* constitutes the side of existence or reality of the idea of spirit, whose concept is reason.

To conclude this chapter, I will quote part of Hegel's clarification of the distinction between intelligence and will, as contained in section 368.

Enc A 368R:

The distinction between *intelligence* and *will* has often the incorrect meaning that both are fixed as separately existing, so that willing could be without intelligence or the activity of intelligence without will (*willenlos*). However, intelligence is as essentially will, for only free *self-determination* is will, as will is intelligence, for, in its immediate and abstract determination, freedom is only as the *certainty* (*Gewißheit*) of myself. The will will thus show itself to be the truth of intelligence, or rather the intelligence itself will show the will to be the truth of intelligence. The spirit's will to be as intelligence [only] is its self-determination to abstract from the ends and interests set by the spirit itself, and to not behave as will.

At this point, it is possible to pass from the *Encyclopedia* to the *Grundlinien*, where Hegel summarizes his philosophy of the will before proceeding to a more detailed analysis of "right." The next chapter will, therefore, focus on the Introduction of Hegel's *Rechtsphilosophie* as it was published three years later, in 1820.

⁵³ Enc A 453: subjective and objective spirit together form "the process in which [...] the *reality* or existence" of the spirit as absolute knowing is achieved. Cf. *Selbsterkenntnis*, pp. 79-90 and 111-157.

CHAPTER THREE

FROM FREE WILL TO RIGHT

Hegel's Introduction to the *Grundlinien* (§§ 1-33) offers a deduction of the concept of "right" from the concept of (free) *will*. The result of this deduction is the definition of "right" in the very broad sense of the word, so broad that its unfolding covers all the dimensions and configurations (*Gestaltungen*) of moral, legal, familial, social, and political praxis.

The Subject Matter of the Philosophy of Right (§§ 1-2)

In order to explain what his book is about, Hegel begins with a provisional definition of "right" (§§ 1-3); he then forwards his thesis (§ 4), proves it (§§ 5-30), indicates his method (§§ 31-32), and divides his subject into parts (§ 33). We have already seen that Hegel, though sometimes himself using the expressions "definition" (*definitio*, *Definition*) and "proof" (*demonstratio*, *Beweis*), distances himself from the usual method by talking about "the so-called definition" and "the so-called proof" and by characterizing them as parts of a purely "formal" method. His own method, to which he refers at the end of § 2R ("what the scientific procedure of philosophy involves, must here be presupposed as explained in the philosophical logic"), differs from the traditional method primarily by virtue of its concrete, non-formal character. It does not limit itself to abstract concepts, but shows how a concept (for instance, right) necessarily takes the form of an existing configuration (*Gestaltung*). The abstract concept must be shown to be the outline of a concrete reality, and the transformation of the former into the latter must be proven to be necessary.

The truth or "idea" of a thing is neither an abstract thought nor a merely empirical fact; it is the indivisible unity of a form (or formal determination) that fits a content, or a content that is comprehended as the concretization of an abstract (or formal) determination.

In the context of Grl 1-3, Hegel does not speak about theses (*Sätze*). This is probably because a thesis, which is a kind of sentence or proposition and therefore a form of disunity, cannot contain the truth. Since the truth of things is always a union, it cannot be expressed by a logical or linguistic multiplicity. Only one concept (or a syllogism, if it is comprehended as one in-itself-differentiated concept) can grasp the truth of the object under investigation. Sentences are necessary for an analysis of its components, but a series of sentences is not satisfactory because it does not show how they hang together as moments of one whole.

In §2, instead of "proof," Hegel uses the word "deduction" twice.¹ He also uses this word in the Remarks on §§ 3 and 4, and in the passage from Grl 141R, which was quoted as the motto of Chapter One. "Deduction" is here contrasted with the method by which the practitioners of formal logic prepare their definitions. They consult their own, or a generally accepted, representation or expression in order to distill a generic and abstract meaning of the issue at hand. A contingent mode of representation (for example of "right") is thus accepted as the criterion for the correctness of their definition. But what is the validity (or truth) of such a representation? Scientific thought needs to show *why* things are and *why they are as they are*; it must show the *necessity* of the essence, the structure, the existence, the grounds, the intelligibility, etc. of all things and relations. This cannot be done, however, unless one is able to *deduce* the necessity of the concept of, for example, right from other concepts, which, in turn, have been deduced from preceding concepts. A deduction proves that the concept and the existence of right are impossible without other realities (such as will, reason, spirit, and nature), but are necessary if these are real. A deduction proves therefore the concept of "definition" of right as the *result* of preceding deductions. The chain of deductions should not lead to an infinite regress, of course; it must begin with a concept whose truth is self-evident.

If philosophy is the fundamental science of the universe, it must be able to expand its deduction to all beings and concepts, thus discovering the necessary truth of the entire universe as one totality. Many things, however, are not necessary, but only contingent,

¹ See above Chapter One, pp. 85ff.

or even "essence-less appearance," untrue, and treacherous (GrI 1R). They cannot be comprehended as actualizations of specific concepts; with regard to these, we can only think the concept of contingency in general.²

In demanding that philosophy must prove its truths, one recognizes that comprehension implies an insight into the necessity of the nature, the structure, and the constellations of each issue—in this case, right. It is a sin against this rule to accept contingent representations as the basis of true knowledge. Even worse was the method in vogue in Hegel's own day, according to which one starts with personal feelings, intuitions, or other arbitrarily selected "facts of consciousness," making these the criteria for judging the truth or falsehood of theories. Against such subjectivism, which has even more disastrous consequences in practice than in theory, scientific philosophy shows that the true actuality of right is the adequate configuration of its true, i.e., necessary and normative, concept: the *idea* as the unity of the (*formal*) *concept* and the actual concretization of this concept's *content*.

Once the concept of right is deduced from other, formerly established concepts, we can turn to the generally accepted representations, feelings, and linguistic uses and inquire whether they correspond to the insights gained through the deduction. The true concept itself is the criterion for this comparison. If ordinary language or popular views do not agree with the rigorous conceptuality of true philosophy, the *former* must be adjusted, not philosophy. Most often, however, it is possible to show that commonly held representations indeed contain the truth of the concept in a hidden, albeit more or less distorted, way.

Natural and Positive Right (§ 3)

As a corollary to his definition of right in §§ 1-2, Hegel clarifies the relation between the philosophy of right and the study of right as it is frequently understood, namely, as *positive law*.³ As such, it is

² Cf. above p. 90 and note 71 of Chapter One.

³ The German expressions "*Naturrecht*" and "*positives Recht*" (translations of *ius naturale* and *ius positum* or *ius positivum*) are equivalent to "natural law" and "positive law." *Philosophie des Rechts* or *Rechtsphilosophie* is normally translated as "philosophy of law." However, Hegel uses *Recht* ("right" or "law") and *Rechts-*

contained in legal codes that have the same validity as that of the states to which they belong. "Positive" is here not opposed to "negative" but rather to "natural." Hegel retrieves the traditional opposition of natural law (*jus naturale*) and positive law (*jus positivum*) by contrasting "natural right" (*das Naturrecht*) with positive right in § 3R. The study of the latter belongs to the positive science of right, whereas the former is the object of philosophy. This explains why Hegel can identify natural right with "philosophical right," why *Naturrecht* figures in one of the two titles of his book, and why the first title "Natural Right (or Law) and Science of the State" (*Naturrecht and Staatswissenschaft*) is repeated after the Preface and above the subtitle, "Introduction" (*Einleitung*).⁴

Because his audience might mistakenly associate the word "nature" in *Naturrecht* with a pre-civilized, and in that sense "natural" or pre-spiritual, "state of nature," as thematized by Hobbes and Rousseau, Hegel criticizes the expression *Naturrecht* in his course of 1817-18 and 1818-19. In Wannenmann's notes we read:

The name — "natural right" — deserves to be abandoned and replaced by the name "philosophical doctrine of right," or, as will also be shown, "doctrine of the objective spirit." The expression "nature" contains the ambiguity that it is understood (1) as the essence and the concept of something [Hegel often uses the

philosophie in a very broad sense, while using *Gesetz* (law) for a restricted domain within legal philosophy. To prevent misunderstanding, I will translate *Recht* as "right" and *Philosophie des Rechts* as "philosophy of right." Because Hegel often uses "*Recht*" also in a restricted sense, namely, for what he calls "abstract right" (Grl 34-104 and Chapter Four below), I will put "right" in quotation marks when his "*Recht*" is to be taken in the broadest sense and the context does not make this explicit. In the *Encyclopedia*, "right" in its broadest sense is rare. There, the overall title is "Objective Spirit" (A 400; B 482; C 483), while "abstract right," as the title of the first chapter, has been replaced with *Right* (*Das Recht*, A 402; BC 488).

⁴ For an explanation of the two title pages — one with the title *Naturrecht und Staatswissenschaft* ("Natural Law and Science of the State in Outline"), and the other with "Main Lines (*Grundlinien*) of the Philosophy of Right" — see *Philosophy and Politics*, pp. 1-13. The first title uses the traditional terms for natural law and political science, but Hegel's book shows that the latter of these expressions ("science of the state") indicates simultaneously a part and the encompassing truth of the former. In "Hegels Kritik des Naturrechts" (*Hegel-Studien* 4 [1987]: 177-204) and *Studien zur Hegelschen Rechtsphilosophie*, Manfred Riedel provides interesting information about the relationship between Hegel and the preceding natural law philosophy. Cf. also Riedel, "Natur und Freiheit in Hegels Rechtsphilosophie," in *Materialien* 2, pp. 109-127, and Norberto Bobbio, "Hegel und die Naturrechtslehre," in *Materialien* 2, pp. 81-108.

expression “the nature of the thing” (*die Natur der Sache*) for this], and (2) as the unconscious immediate nature as such.⁵

With regard to Rousseau’s opposition between an imaginary state of nature and the state of civilization, Hegel is anxious to point out that right is not a product of natural causes, but rather of spirit. As he will show in GrI 10-28, even natural elements within the human subject, such as natural inclinations and desires, cannot be the ground of right because they are not entirely spiritual and free. However, Hegel continues to use the traditional name “natural right” and in the *Grundlinien* he hardly mentions the name “objective spirit.”⁶

The exact essence and function of positive right cannot be shown, and even less deduced, at the beginning of the *Rechtsphilosophie*, but we might expect Hegel to introduce them after he has deduced the authority of the state. Instead, he elaborates on the positivity of right when he explains that the administration of justice (§§ 209-229), as the institution of the civil society, requires positive (or posited) laws (§ 211-218). At that point (§ 212R), he states that the positive science of right is a historical science insofar as it concentrates on laws that are factually accepted as valid within a historical community. Their positive validity neither requires nor precludes that these laws are also rationally justified — and thus contain conceptual, “natural,” and philosophically comprehensive right — but their positivity is not the reason that they are justified. The study of positive laws must look to philosophy to discover whether they are indeed right or not. As a positive science, this study focuses on right insofar as it is understandable in the context of historical, national, and cultural circumstances and decisions; however, philosophy is needed to comprehend to what extent posited right is rational.

In his Remark on § 3, Hegel insists on the “very important, firmly to be maintained” and “very obvious” distinction between the philosophical unfolding of right (from its concept), on the one hand, and “historical explanations” based on *factually* existing

⁵ Wa 2R, p. 6. Similarly, Homeyer’s notes § 3R (Ilt 1, pp. 239-240 or *Mitschriften*, p. 211).

⁶ For “objective spirit” see Chapter Two, notes 8, 17, and 19; for “*Naturrecht*,” see GrI 2R (“die Natur des Begriffs”) and 3R (“das Naturrecht oder das philosophische Recht,” “die Natur des Begriffs,” “die Natur der Sache”).

circumstances, institutions, determinations, or principles, on the other. Neither facts nor history — e.g., in the form of a venerable past — can guarantee the rightness of enacted laws; they are no substitute for a conceptual insight into the rational necessity of their content. Only philosophy can discover what right is “in itself” (and then also develop what it is “in and for itself”); positive sciences concentrate instead on the shifting situation of historical communities that emerge, change, and disappear. What seems justified under certain, e.g., feudal, circumstances, because it fits into a specific constellation, loses its justification in another, e.g., bourgeois, culture. Positive science grasps the appearance only, whereas philosophy knows the essence, the “in-itself,” the concept. The appearance can differ from right as it (essentially, in itself, conceptually) is, but it can also be its appropriate realization. In the first case, philosophy judges the factual appearance to be inadequate.

If, indeed, positive right can differ from rational right (or “right in itself”), neither the factuality of any state or culture nor history as such have authority in philosophy. The positive study of law can therefore never defend itself against “the cross-question” of whether its determinations of the law are supported by *reason* (§ 212R).

The importance of Hegel’s distinction between philosophy and positivism is obvious if we agree with his statement that “legal determinations can be shown to be perfectly *grounded* and *consistent* on the basis of the *circumstances* and existing institutions of right, and still not be right and reasonable” (§ 3R). The distinction indicates a possible contradiction between the factual existence of legal and political systems and the system that reason must unfold. Against the false impression that his Preface might have given, Hegel declares:

Because the positing [of the positive law] constitutes its being-there, in which contingent arbitrariness and other kinds of particularity can introduce themselves, the content of the law can be different from that which in itself is right (§ 212).

Hegel gives examples of such differences, but all of them belong to the past.⁷ For non-philosophical, political reasons, he preferred

⁷ Hegel attacks certain traditional rights of the monasteries and outdated laws

to refrain from explicit criticism of certain positive laws of his own country and time.

Some passages in the Preface *seem* to say that the established order is an appropriate realization of the principles developed in Hegel's book.⁸ However, a comparison of the theory developed in the text with the historical situation of 1820 reveals a harsh, though mostly implicit, criticism of the latter. None of the nations of his time corresponds to the picture provided in Hegel's philosophy, and certainly not Prussia, which, for example, had neither a constitution nor a parliament.⁹

In his lectures, Hegel did not conceal the contrast between the deficient reality of positive right and the ideal actuality of right as understood in philosophy. From the outset of his winter course of 1817-18, he stated as a trivial truth that positive right "usually" is "a mixture of rational, contingent, and arbitrary rules, which partly originate in violence and repression or incompetence of the lawgiver, partly have been inherited from a less perfect situation of the society . . ." (Wa 5). Of course, positive right *can* be rational. If so, it is easy to obey the laws, at least for rational people, be they philosophers or well-intentioned persons led by "trust and faith." If the laws or the citizens are irrational, however, the authority of positive right can only be upheld by coercion and fear.

In a long polemic against Gustav Ritter von Hugo (Grl 3R) Hegel opposes the historicism of the so-called "historical school of right" (*die historische Rechtschule*), whose leading figure was Hegel's colleague Friedrich Carl von Savigny, a professor of law at the University of Berlin who had great influence in the court of King Friedrich Wilhelm of Prussia.¹⁰ Hugo's work had anticipated and

in Grl 3R (pp. 24-28).

⁸ Especially sections five and six of the Preface (pp. 5-6). See *Philosophy and Politics*, pp. 52-64.

⁹ See below Chapter Ten on the State, especially pp. 478 and 554-555.

¹⁰ See also the discussion in Grl 211R. On Savigny and Hegel's rejection of the *historische Rechtschule*, see the excellent studies of Giuliano Marini, "La polemica con la scuola storica nella 'Filosofia del diritto' hegeliana," and "Il rapporto Savigny-Hegel nella storiografia recente," in his *Storicità del diritto e dignità dell'uomo* (Napoli: Morano, 1987), pp. 89-196, and Aldo Schiavone, *Alle origini del diritto borghese: Hegel contro Savigny* (Roma: Laterza, 1984). Marini is also the author of *Savigny e il metodo della scienza giuridica* (Milano: A. Giuffrè, 1966), and *L'opera di Gustav Hugo nella crisi del giusnaturalismo tedesco* (Milano: A. Giuffrè, 1969). For a good explanation of Grl 3 & R, especially with regard to the

prepared the method of this school when he tried to establish the legitimacy of certain laws by showing how they grew out of historical circumstances and transformations. Against their historicist postulate Hegel forcefully states that "mere customs" do not constitute a source of (rational and truly legitimate) right.¹¹ As such, they represent only an external existence of right, but this is a bad form of existence if it does not accord with the concept of right. To view historical factuality as a proof of legitimacy is a betrayal of reason and a plea for despotism; whatever any government would arbitrarily impose and enforce would then constitute right (cf. Wa 269).

Right is a normative concept because reason demands rational behavior. The leaders of a state *ought*, therefore, obey reason by making rational laws and decisions. Only if the existing laws are rational, can citizens who themselves are rational feel and know themselves to be at home in obeying them. Insofar as the political and legal institutions are not entirely in agreement with reason (which is the normal situation), obedience is always mixed with fear, because rational rules are combined with authoritarian rules in need of replacement. Therefore it is obvious — and in agreement with Hegel's entire logic — that the historical reality must be evaluated, and if necessary, criticized and reformed in the name of a *Sollen* that is contained in the philosophical concept of right. Insofar as history contains much contingency, it is *not* the supreme judge of justice; rational insight transcends and judges factuality. According to Wannenmann's notes of 1818-19, Hegel even stated:

In the positive law of all states irrational determinations have survived. Positive law is in force (*gilt*), whether it has been justified before reason or not, whether the singular individuals have recognized it or not. Positive law can therefore also contain arbitrary determinations, which contradict freedom [. . .]. Reason

contemporary study of Roman Law and the "historical school of law," see also Marini's, "Ragione e storia nel diritto: Per 'un'interpretazione sistematica del § 3 della 'Filosofia del diritto' Hegeliana," in *Studi in memoria di Giovanni Tarello* (Roma: Giuffrè, 1990), vol. 1, pp. 345-363. In "Die vergessene Geschichte der Freiheit" (*Hegel-Jahrbuch* 1993-94: 65-74), Walter Jaeschke suggests that Hegel's polemical stance toward the *historische Rechtsschule* is responsible for a wholesale dismissal of the history of right from his own philosophy of (political, cultural, and religious) history.

¹¹ Ilt 1, p. 237.

projects an ideal of the state [and] its legal framework, from which ideal the configuration of the actuality *is very different*.¹²

And Homeyer's notes on the first lecture of the same year contain the following:

The object of the philosophical science of right is the higher concept of the nature of freedom, regardless of that which is the law (*das was gilt*; Hom 207).

Not only does Hegel present his students with an anti-historicist perspective, he is also explicit in criticizing the European actuality:

The spirit of our time is directed against several moments from which the present situation of the peoples of Europe still suffers. These moments hamper a pure development of the concept of right. In Germany, they are principally two: the first regards mainly civil law (*Privatrecht*), the other regards constitutional law.

Hegel then indicates that the Germans have been subjected to an alien system of right that does not correspond to their national character: the Roman law, which is the "property of a learned class." The administration of justice, which was a common affair in the Germanic tradition, has become the privilege of a specific group (Hom 206).

A second source of irrationality in German law lies in relics of the feudal system. As the heritage of a dead past, these relics impede the complete unfolding of personal freedom. Examples include some forms of bondage and the fact that many public functions are still the private domain of the nobility. Another example of an illegitimate law is the voting right of the so-called "rotten boroughs" in England (Hom 206-207).¹³

All these examples point to the necessity of leaving the past behind in order to welcome the new phase of the spirit's development. "Wherever the spirit has acquired a higher consciousness, it is necessary to fight against such institutions" (Hom 207). The fight is accompanied by a postulate, or rather, a faith: history is driven by Reason; Reason has been unfolding, exteriorizing, and actualizing itself and will continue to do so. This faith is expressed

¹² Wa 269-270. "Actuality" (*Wirklichkeit*) is used here in a non-technical sense synonymous with "real" or "existing."

¹³ The boroughs or districts where, for historical reasons, a few voters could send a disproportionately large representation to Parliament.

in the rhetoric of the (in)famous Preface of the *Grundlinien*. It opposes another, Fichtean view according to which the highest perspective on right and history lies in the necessarily endless *Sollen* of a never fully actualized ideal. Many polemical expressions in Hegel's Preface seem to reject any *Sollen* by overemphasizing the actuality of the rational in modern law and politics. However, the book itself indicates how much has yet to be achieved, even concerning the basic constitution of the state. If "the positive law of *all* states retains determinations that do not accord with reason" (Wa 269, my emphasis), and if there has never been a fully rational state, how then can we know that history will one day arrive at the actuality of its idea(l)? The answer can only lie in *the faith* that Hegel demanded his students bring to his lessons: a trust in the supreme power of Reason.¹⁴



Hegel distinguishes between the *form* and the *content* of positive law in § 3. Its form lies in the authority of the state and the factual validity that is sanctioned by the trust of its citizens and reinforced or, if need be, replaced by the power of the leading class. If the law is philosophically justifiable, its content is the unity of a rational core and a positive or posited moment. The latter is necessary for the concrete realization of that core (the conceptual dimension unfolded in philosophy). This positive moment has three main sources, two of which follow from the necessity that the concept be actualized in a world of particular forms and singular cases. This actualization is a question of application, or, as Aristotle would say, of *phronēsis*. The proper application of the principles of right presupposes analysis and reasoning, but the application itself does not belong to philosophy, which is confined to the conceptual or speculative mode of thinking. Hegel's readers cannot, therefore, expect any deduction of a concrete code of laws — and the same must be said of other parts of "right" with regard to moral and political casuistry. Hegel does not teach *applied* ethics or law.

One source of positivity is worthy of philosophical treatment, however. This concerns the necessary relations between the

¹⁴ See Hegel's text on "faith in Reason" in GW 18, pp. 6 and 18.

conceptual system of right and the concrete world insofar as this is constituted by natural, national, cultural, and historical elements. In the Remark on § 3 Hegel refers to Montesquieu's *De l'esprit des lois* as an exemplary treatment of various systems of law.¹⁵ "Right" (i.e., laws, morality, ethos, economic life, and politics) must be comprehended as only one moment of a natural, cultural, and historical totality, in which the geographical situation and biological characteristics, art, religion, and the search for knowledge are other moments. This totality may be called history, but as such it encompasses much more than what Hegel calls "world history."¹⁶ It also encompasses nature as environment, changes of seasons and climates, and the various histories of skills, arts, religion, science, and philosophy.¹⁷ One aspect of this total history is the development of right as the self-expression of different nations in different phases of their existence. But the study of such history can only be undertaken after a successful treatment of all partial histories. Therefore, in § 3 Hegel points not only toward the political history with which he concludes the *Grundlinien*, but also to the end of his *Encyclopedia* and the separate courses on art, religion, and philosophy in which he developed the other histories.

Spirit-Will-Right (§ 4)

Section 4 of the *Grundlinien* summarizes the entire doctrine of right by stating that the system or realm or *world* of "right" is nothing other than the realm (or world or system) of *actualized freedom*. "Right" is the actualization of freedom; freedom is the substance, essence, ground, source, and basis of right. To comprehend right we must comprehend freedom, and to comprehend freedom we must understand the concept of spirit as practical spirit or will.

The connections between this definition and the deduction of the will in the *Encyclopedia* are clear, but the analysis of the will provided in Enc A 388 ff. is not simply presupposed in the *Grundlinien*.

¹⁵ Vol. one, book one, chapter three.

¹⁶ Which is mainly political history. See Chapter Twelve.

¹⁷ See Adriaan Peperzak, "Logic and History in Hegel's Philosophy of Spirit," in Hans-Friedrich Fulda and Rolf-Peter Horstmann (eds.), *Vernunftbegriffe in der Moderne* (Stuttgart: Klett-Cotta, 1994), pp. 607-622.

Hegel summarizes it again in GrI 5-28, after which, in §§ 29-32, he returns to the concept of right, provisionally indicated in §§ 1-4. The circular structure of the Introduction and the hierarchy of elements that compose the grid on which Hegel's philosophy of right is built are indicated below in the schema of the argument (pp. 191-193).

There are, however, two expressions in § 4 that still require explanation. To begin with, freedom is called the "*Substanz und Bestimmung*" of the will. The word *Bestimmung* is ambiguous. While it can mean "determination," as it usually does in Hegel's work, it can also mean "destination." "Determination" often indicates particularizations of a universal concept; however, this meaning would not be appropriate in this sentence. "Determination" also has the very general meaning of a logical meta-category; it is then synonymous with "delineation" or "definition," except that it should be understood as *onto*-logical and not as a subjective specification. In this sense "determination" is appropriate to freedom as that which makes the will will. The third meaning of *Bestimmung*, destination, characterizes the realm of right as an ongoing process of actualization oriented toward total freedom. This meaning is also appropriate here. In fact, it coincides with the second meaning because all Hegel categories, summarized in the idea itself, are substantial as well as dynamic parts of a process. The word "substance" means, in this context, the core and most essential feature (or determination) of the will.

The third expression requiring interpretation is "a second nature," which, in the Aristotelian tradition, is an expression that serves to indicate the quasi-natural character of virtues and vices. Hegel applies it to "right" as the system of institutions and mores that rules the life of human communities and their members. At the same time, he hints at certain similarities between "*right*" and (first) *nature* and at a parallel between the relation of the idea to nature and the relation of the spirit to right. These hints will become clearer when we gain an insight into "the world of spirit" that is realized in the system of actualized freedom.¹⁸

¹⁸ Though the expression "second nature" (*deuterā physis*) is not found in Aristotle's own work, the Aristotelian tradition has used it to indicate the spontaneous, quasi-natural, and harmonious character of true virtue as distinct from the restrained character of "continence" (*enkrateia*; *Nicomachean Ethics* 1102b15-

The Deduction of Right in Grl 1-33 and Enc A 388-401

As the Remark on § 4 reminds the reader, insight into the essence of will and freedom cannot be taken for granted as a "fact of consciousness" or as given in general opinions. This insight must be *deduced*,¹⁹ and this can only be done by showing its onto-logical connections with the totality of essences that are already comprehended. In a parenthetical statement, Hegel summarizes the deductions of feeling, representation, and thought as realizations of intelligence and of the abstract concept of will, as provided in the *Encyclopedia* (A 363-387); however, instead of simply presupposing the analysis of the practical spirit given in Enc A 388-399, he presents a new version of the same analysis in §§ 5-28 of the *Grundlinien*. According to Grl 4R, the *Encyclopedia* (A 388-399) offered a deduction of "the fundamentals" (*die Grundzüge*) of the concept of free will. Although Hegel says that he now presupposes the result of that deduction as a "premise" for the further development of right, sections 5-28 in fact offer a more extensive deduction than the *Encyclopedia*. While there are differences between the versions of 1817 and 1820, they are not immediately relevant to the interpretation of the *Grundlinien*.

The framework of Grl 5-28 is more limited than that of Enc A 388-399. Whereas the *Rechtsphilosophie* of 1820 presents freedom only from the perspective of "right," the *Encyclopedia* shows how

28; 1128b34-35; 1145a15-1152a35). See my "'Second Nature,'" in *The Owl of Minerva* 27 (1995): 51-66. I agree with Francesca Menegoni ("Lineamenti per una teoria dell'azione nella filosofia dello spirito" in F. Biasutti, et al. *Filosofia e scienze filosofiche nell' 'Enciclopedia' Hegeliana del 1817*, Trento: Verifiche, 1995, p. 523, note 148) that "second nature" does not only refer to habit or custom, but also to the connotations of exteriority and contingency typical of (the "first") nature. On the relationship between Hegel and Hobbes, see Ludwig Siep, "Der Kampf um Anerkennung: zu Hegels Auseinandersetzung mit Hobbes in den Jenaer Schriften," in *Hegel-Studien* 9 (1974): 155-207; Jacques Taminiaux, "Hegel and Hobbes" in his *Dialectic and Difference: Finitude in Modern Thought* (Atlantic Highlands: Humanities Press, 1995), pp. 1-37, and my response in "Hegel and Hobbes Revised," in Ardis Collins (ed.), *Hegel on the Modern World* (Albany: State University of New York Press, 1995), pp. 199-218. Cristiana Senigaglia provides a very thorough analysis and comparison of the relevant texts of Hegel and Hobbes in *Il gioco delle assonanze: A proposito degli influssi Hobbesiani sul pensiero filosofico-politico di Hegel* (Firenze: La Nuova Italia, 1992). See also Chapter Two, note 19.

¹⁹ Grl 2 (*Deduktion*) & R (*Deduktion, Beweis und Deduktion*), 4R (*Deduktion*), 141R end (*Beweisen und Deduzieren*).

freedom, as characteristic of spirit in general, is realized in the entire universe of culture and history, i.e., not only in "right" or "objective spirit," but even more so in art, religion, and philosophy. From the perspective of the *Encyclopedia*, the objectivity of freedom in right is subordinate to the absolute spirit, which is the identity of subjective and objective spirit.²⁰ If the perspective of the *Grundlinien* is taken in isolation — and the book rarely warns against this danger — it can easily generate the false impression that the full actualization of freedom is to be found in the world of law, ethics, politics, and political history.

The exact relationship between "right" and freedom's other configurations, such as religion and science, are not treated in the *Grundlinien*. This book contains only a few, rather unclear, hints in this respect,²¹ and its final sections suggest a sort of ultimate victory of freedom in the dominant Western part of the world; however, Hegel here does not thematize the relationship between "right" and the distinct contributions to this victory on the part of art, religion, and philosophy. Acquaintance with the *Encyclopedia* is therefore necessary to see the realm of "right" in its true proportions.

The difference between the perspectives of the Heidelberg *Encyclopedia*, on the one hand, and the *Grundlinien*, on the other, does not imply a fundamental difference in their definitions of free will and right. The abstract concept of the free will as formulated in GrI 21-28 is the same as the shorter definition of Enc A 399; "right" or "objective spirit" is likewise defined in the same way in both books (GrI 29 and Enc A 400). For a correct interpretation of Hegel's philosophy of right, it is necessary to keep in mind the broader framework, however. If freedom characterizes spirit as such (A 300) and if it is the basic property of both theoretical and practical reason, we want to know whether the actualization of spirit — i.e., civilization and human perfection — stops at ethics and politics or can be reached only in conjunction with religious and philosophical achievements, as all versions of the *Encyclopedia* clearly state. The seemingly self-contained character of the

²⁰ Cf. *Selbsterkenntnis*, pp. 46-64; *Hegels prakt. Phil.*, pp. 20-71, 107-121, and 132 ff.

²¹ The main text on this issue is the long Remark on § 270, of which I offer my interpretation in Chapter Thirteen below. See also *Selbsterkenntnis*, pp. 58-78.

Grundlinien has misled many readers by making them believe that Hegel saw the state as the summit of the spirit's self-actualization. We will eventually see that politics is a dead end if it is made into an absolute; to comprehend its true proportions, its essential links to religious and philosophical transcendence cannot be neglected.

The Will as Practical Reason (Enc A 386-387)

The fact that Hegel does not repeat or summarize his all-important transition from intelligence (theoretical spirit) to will (practical spirit, as presented in Enc A 386-387) might make it difficult for the reader to see that the concept of will includes the rational and intelligent moment of spirit. In Grl 5-30, Hegel does not emphasize his firm conviction that "will" is never a purely arbitrary force, but always a rational, intelligent, and knowing one. Perhaps he counted on the general agreement among scholars with regard to Kant's identification of the will as "practical *reason*," parallel to intelligence as the power of rational theory.²²

The rational character of both intelligence and will is fundamental but not always apparent. Just as arbitrary choices seem to be forms of willing, certain theoretical productions can appear irrational. For example, many feelings are too subjective to be expressions of reason. However, in accordance with his logic, Hegel sees all forms of knowledge, including sensation, feeling, representation, imagination, memory, and so on as more or less adequate, deficient, or distorted realizations of the perfect form, which is also the all-encompassing form: the conceptual comprehension produced by intelligence. Herein lies one of the main differences between Hegel and Kant. Whereas the latter makes a sharp distinction between sensibility (sensation, perception, imagination, etc.) and rationality (*Verstand*, *Vernunft*), Hegel continually points out that (1) fundamental distinctions include basic relations, (2) basic relations imply some sort of unity, and (3) these

²² Cf. Edith Düsing, "Zum Verhältnis von Intelligenz und Wille bei Fichte und Hegel," in Franz Hespe and Burkhard Tuschling (eds.), *Psychologie und Anthropologie oder Philosophie des Geistes* (Spekulation und Erfahrung II, 24 [Stuttgart: Frommann-Holzboog, 1991]), pp. 107-133, and Joe O'Malley, "Die Wurzeln der Freiheit als politische Gesinnung im subjektiven Geist," *ibidem*, pp. 422-435.

relations and the implied unity belong to the *internal constitution* of the related entities. Since Hegel thinks that the perfect form of any kind of reality (e.g., intelligence), as universal, includes all other forms of that reality (e.g., sensation, feeling, representation, etc.), he also holds that the relations among the included forms and between these and the perfect form constitute *a totality that is contained in that perfect form*.

Hegel's analysis of intelligence, as provided in Enc A 368-387 and summarized in the parenthetical statement of Gr1 4R, illustrates the active and *self-determining* character of theoretical reason (cf. A 386) by showing how its "passive" determinations on lower cognitive levels (feeling, sensation, imagination, etc.) conceals the fully true or perfect active nature of intelligence. Intelligent thought necessarily appears in less perfect forms of cognition.

Hegel's treatment of practical reason shows in a similar way that the will's self-determination encompasses several imperfect determinations of the self by itself, such as feelings of pleasure, natural drives, and moods. The secret of all affective and practical engagement lies in the rational and intelligent freedom of the will, which is as much a fact as it is an ideal or task.

Hegel's treatise on free will, outlined in Gr1 5-28, must be understood as the dynamic version of a more traditional treatise that would first list, study, and compare the various possibilities of human praxis and affectivity. An example of such a list would be the following: (1) feelings, subdivided into (a) moods, (b) drives, (c) desires; (2) choice; and (3) reason as practical. After the study of each of these "faculties," it would compare them in order to discover their similarities and differences. Finally, it would inquire whether the entire network, of which they seem to be parts or elements, is held together by one or a few principles, perhaps in the form of a central or original force. Hegel would appreciate such a treatise — of which he knew many examples²³ — and

²³ See the list of books on anthropology, phenomenology, and psychology to which Hegel could refer in Michael Petry's *Hegel's Philosophy of Subjective Spirit*, vol. one, pp. xcvi-civ. Note, however, Hegel's disparaging comments about the existing psychology in Enc A 367R, repeated in BC 444R ("Psychology, with logic, [. . .] has profited less than other disciplines from the general culture of the spirit in recent times; it is in a very bad shape") and Gr1 4R ("it is not easy to find a philosophical discipline that is in such neglected and bad condition as

characterize it as a product of *Verstand*. The last phase of such an attempt would fail if the writer did not possess a unifying principle from the outset: once one starts with separate topics, any common denominator one might find will present only an abstract, not a true, universality, for this can be found only in a *comprehensive* unification. To begin a treatise without a basic concept or principle will not lead to a unified theory. In this case, one accepts several phenomena as simply given, but how then can one determine that these phenomena belong together and constitute a "realm" or specific dimension of the universe? The phenomena must be seen from the outset as expressions of one principle that generates them as members or moments of a totality in which the unifying principle is manifest. But then philosophy should make its methodological presuppositions explicit by defining that principle. However, at the *beginning* of a theoretical development, such a principle can only be known in an abstract way; the philosophical task is to show how it becomes concrete in diverse phenomena. The abstract concept of this principle must unfold and concretize itself, thereby showing that its universality includes particularization and singularity. This procedure prepares the final phase of the investigation: after the differentiation of the initial concept, the confrontation of the elements disclosed by the differentiation must be overcome through the reaffirmation of the original unity, but now as a totality whose elements reveal their distinct functions and mutual connections.

Instead of an atomistic listing of separate phenomena having an abstract concept in common, Hegel presents us with a genus (the universal moment of the concept) that particularizes *itself* in species (which it encompasses as its own differing-but-mutually-inclusive moments), and singularizes *itself* in the form of singular phenomena that contain the universal (generic) and particular (specific) moments of which it is composed.

By transforming the analysis of separate elements into a dynamic unfolding of interconnected moments, Hegel performs a

the *doctrine of spirit*, which is usually called 'psychology'). For the relevance of Hegel's "anthropology" and phenomenology for his political philosophy, see Ludwig Siep, "Hegels politische Anthropologie," in Ottfried Höffe (ed.), *Der Mensch — ein politisches Tier? Essays zur politischen Anthropologie* (Stuttgart: Reclam, 1992), pp. 110-133.

dynamic reconstruction of organic, self-containing, and self-developing totalities. Instead of a static and analytic sum of entities that can be elucidated in sentences, Hegel's universe is the all-encompassing movement of a creative and self-revealing activity or "actuality": the dynamic multiplicity of the unique spirit's life.

The Deduction in GrI 1-32

The deduction of the concept of right (GrI 29) through the unfolding of the will (GrI 5-28) presents us with three main phenomena:

1. drives (*Triebe*) - § 11;
2. the power of choice (*Willkür*) - § 14;
3. will or free will (*Wille* or *der freie Wille*) - § 21.

Sections 11, 14, and 21 are thus the hinges of the argument displayed in §§ 10-29. These are preceded by five sections on the (abstract) concept of will (§§ 5-9), which is the principle that concretizes itself in the three concrete phenomena.

Schema of GrI 1-32

As already stated above, the comprehension of Hegel's arguments always includes an insight into the structure of their movement. The distinction of levels and stages, the succession of topics, the changes of perspective, the location and the function of each element must be seen before we reach a comprehensive concept that gathers all of them as moments of one, hierarchically ordered, dynamic and synchronically unified whole. Therefore the interpretation of Hegel's Introduction (§§ 1-32) requires an insight into its structure. My own analysis of this structure can be schematized in the following table.

INTRODUCTION

1-4: [The *object* of the philosophical science of right]

- 1: The object of the philosophy of right is the idea (i.e., the concept *and* the actualization) of *right*.
- 2: The task of the science of right is to develop the idea of right from its concept.
- 3: Positive versus natural right (cf. 211 ff.)
- 4: The soil of right is *free will*

5-28: [*The idea of freedom*]

5-9: Free will:

5-7: The *formal* concept of will:

5: α) Abstract universality of the will

6: β) Particularization: determination, finitude

7: γ) Singularity

8-9: The will's particularity (§ 6) is

8: a) formal opposition of subject (self-consciousness)
and object (external existence) [cf. Enc A 344-359]

9: b) *self*-determination of the will (Enc A 363)

10-28: The *content* of the concept of freedom

10-13: Immediate will:

10: The will in itself [cf. §5]

11: The natural will: drives, etc. (opposition between the form
of mineness and the immediate content) [cf. §6]

12: Double indeterminacy. Concluding singularity [cf. § 7].

13: As consciousness (cf. § 8), the immediate will is finite; and
as non-identity of form and content (§11) it is formal.

14-18: *Willkür* (reflective middle between 10-13 & 21 ff.)

14: The formally infinite will is tied to nature, but can choose
this or that content.

15: *Willkür* (as abstract reflection opposed to possible contents)
is the will's contingency.

16: Infinite transcendence beyond all possible determinations
does not conquer finitude.

17: The dialectic of drives can be terminated by contingent
decisions only.

18: Man's nature is simultaneously good and evil.

19-20: [Transition to 21 ff.]

19: The drives must be purified from that which is natural,
subjective, and contingent, to compose the reasonable
system of the will's determinations.

20: They are externally universalized (in happiness) through
Bildung.

21-28: The free will *in and for itself*:

21: The will's true universality (form, 5-7) has itself as its
content (10-28). The will in and for itself.

22-24: Properties of the free will in and for itself:

22: infinite and actual;

23: *bei sich*; true; identity of concept and being-there;

24: universal as subsuming particularization and singularity.

25-28: The idea of the will as unity of subjectivity and objectivity.

25: "Subjective" has three meanings.

26: "Objective" has three meanings.

27: The idea of free will is the free will that wills the free will.

28: The concept determines the idea as systematic totality.

29-32: The concept of right

29: Right is the being-there (*Dasein*) of free will.

- 30: The sanctity of right. The higher right of concrete spirit against formal right.
- 31: The method of science is the logic.
- 32: Conceptual determinations are at the same time existing configurations.

Analysis

As the inclusion of §§ 1-3 and §§ 29-32 shows, right is seen as the "being-there" (*Dasein*, §§ 29, 30, 32) in which freedom is actualized (*verwirklicht*, §§ 1&R, 4, 22, 27, 31R), while freedom is seen as identical with free will. Right is actualized freedom (§ 4), while freedom realizes itself and exists as right. Although the general definition of spirit in Enc A 300 presents freedom as the essence of spirit, Hegel states in GrI 4 ff. and in Enc A 390-400 that freedom or free will is realized in right or *objective* spirit; however, he does not mention that the complete actualization of spirit (and therefore with the actualization of its freedom) cannot be found in its objectivity alone, since it also demands absolute actualization in art, religion, and philosophy. The perspective unfolded in GrI 4-32 restricts freedom to its relevance for the legal, moral, economic, and political aspects of human culture.

Hegel does not expend any energy on proofs for the existence of freedom or the refutation of deterministic theories. Instead, he takes the freedom of spirit and the necessity of nature for granted, but focuses on the question of how we acquire an insight into the essence, structure, place, and function of all the phenomena in which some degree of freedom (always in some relation to natural forms of necessity) is manifested. However, the very selection of those phenomena already presupposes a concept of freedom. Once this concept is discovered, one can try to "deduce" the phenomena in which it is (more or less) realized, but what are the conditions for the acquisition of the unifying concept? Instead of an induction, which can only result in a provisional, common-sensical representation, Hegel demands that the initial concept be deduced from other, more elementary concepts. We have seen, for example, how he deduces the will from intelligence, intelligence from reason, and reason from self-consciousness. In deducing the will from preceding concepts, Hegel has discovered a new concept, but this is still very abstract, formal, and empty. The formal

concept of will — or, rather, the *form* of this concept — must first be analyzed in its composite elements. When this is done (GrI 5-9), its *content* can be deduced (GrI 10-28), albeit still in a very abstract form. As has already been clarified, this content is composed of some inadequate forms or levels of willing and one adequate kind, which embraces the former as moments of its own reality.

The Concept of Freedom (GrI 5-7)

The best way to read Hegel's treatises is from the end to the beginning (which, of course, presupposes a first reading from the beginning to the end). This is also true for his formal analysis of free will, as given in GrI 5-7.

The phenomenon to be analyzed in these sections is willing as self-determination: a *singular* subject determines itself by choosing to actualize one *particular* possibility out of its unlimited, indeterminate, *universal* range of possibilities. Willing is the activity of a singular will that determines its indeterminate universality through particularization and singularization. Or, as Hegel states, the abstract concept of will is the union of three moments:

(1) pure, indeterminate reflection of the I into itself (moment of *universality*, § 5);

(2) positing itself as determined, thus giving itself a determinate *Dasein* (moment of *particularity*, § 6);

(3) the unity of the first and second moments in a self-determination through which the I posits itself as a simultaneously limited or finite and infinite identity with itself (moment of *singularity*, § 7).

Freedom is thus the singular I as determining its universality by differentiating it into determinate particularities; it is reason or spirit as active actualization of itself or as the "return to itself by actively mediating itself with itself" (§ 7R).

In § 7R, Hegel warns the reader that the will (or the I's self-determination) should not be understood as a faculty of a presupposed subject from which it could be separated. The human subject does not exist apart from its activities; it has more possibilities than willing (e.g., sleeping, being aware, imagining, thinking, etc.), but it is nothing without them. The I is the circular movement of its own preliminary abstract and wholly indeterminate

universality, which differentiates itself in order to actualize itself as a determined singularity.

Willing has two fundamental moments: (1) as willing a specific object or end, it is determinate or particularized, different from willing another kind of object. However, its determination is not imposed on the will, as is the case for subhuman, irrational beings; it is determined by the will itself. (2) The will is therefore independent and maintains a certain distance from its possible determinations. It can choose any determination, or at least it can withhold its consent from determinations that are forced on it by nature, fate, or violence.

Borrowing expressions from Fichte, Hegel clarifies how his theory differs from the Kantian and Fichtean conceptions of will. In willing, the I "posits" (*setzt*) its own determinations, but this act presupposes the horizon of the as yet indeterminate I. As undetermined, the I is limitless or "infinite" (in the abstract sense of non-definite or non-finite), but as positing its own determinations, the I renders itself limited and finite. The original (moment of the) I is nothing other than the I as having and being and positing *only itself*: I as actively being with and reflecting into itself without any otherness. It is a mere I: nothing specific, but the most "pure" and generic of all that is conceivable in its domain, merely or (in the most abstract sense) "absolutely" universal. It cannot become something specific unless its specific determinations are posited by itself. The I must therefore limit its abstract or indeterminate infinity. Both moments, its (abstract) infinity (or indeterminacy) and its finitude (or determinacy), are necessary elements of any willing subject, although they seem contradictory at first. Hegel solves this contradiction, however, by comprehending the I's activity as a movement from initial *indeterminacy* through *particularization* to the *singularity* of an I that has chosen itself as this or that specifically determined actuality. The limitedness of its determinations does not abolish its original infinity because they are posited freely by the I that chooses from among the many possible determinations within the horizon of its own determinateness. The infinite indeterminacy of the will remains the source of different determinations.

According to Hegel, the difference between Fichte and himself lies in the way each conceives of the relations between the

moments of self-determination (§ 6R). In Fichte's analysis, the first moment, to wit, the activity of the I as indeterminate and abstractly infinite, is seen as *positively* infinite, which implies that the second moment, involving determination and limitation, can only be seen as alien and opposed to the first, without possibility of reconciliation or integration. (The same is *mutatis mutandis* true for Kant's analysis of the relation between the transcendental ego and the objective determinations of experience.) This results in a dialectical relation between indeterminate infinity and determinate finitude in the I, which cannot be reconciled by any mediation. Fichte's I is doomed to continually strive for a synthesis without ever realizing one. His mistake lies in the thought that the I's abstract infinity is a positive, in itself complete, and independent reality above and prior to the universe of determinate realities generated by it. According to Hegel, the abstract I or infinity — and, more specifically, the abstract or indeterminate moment of the will — is something *negative*, because it is only a universal *possibility* in the sense of Aristotle's *dynamis* or the Scholastic *potentia*. It cannot exist independently, but only in union with its opposite: though its determinations limit its infinity, they thereby secure its actuality.²⁴ The second moment of the I's self-determination is also negative, but its negativity is not alien to the first moment: the I must negate (2) the negativity that resides in its own (1) indeterminacy in order to thereby become (3) positive as the unity of (1) its (abstract) infinity and (2) its determinate finitude.

The Remark on § 6 applies a fundamental principle of the logic to the concept of will. In his philosophy of religion, Hegel contends, against many theologians of his time, that the separation of God's infinity from the universe of finite beings does not express an adequate religious attitude because it transforms God's infinity into something finite by opposing it to and comparing it with the collection of finite things. However "small" this collection and however "great" God may be, a conception that separates them as two domains or entities diminishes God's infinity by reserving some "space" for something that he is not. Only the most intimate

²⁴ Though Hegel here presents the concept of will in Fichtean terms, Aristotle's characterization of the *psychē* as "somehow all things" (*pōs panta*) is present in the background.

union of the finite with the infinite, i.e., the reciprocal inclusion and immanence of God in the totality of the finite and vice versa can be comprehended as the true infinite. Analogously, Hegel also uses the word "infinity" with respect to lower levels of the universe, either in the sense of the abstract universal as distinct from its particularizations (e.g., at the end of GrI 5) or, more often, in the sense of a fully determined singularity (or concrete concept) in which indeterminacy (abstract universality) and determinacy (particularity) are integral elements.²⁵

The analysis of the will provided in GrI 5-7 is governed by several (onto)logical structures, particularly, (a) the structure of the concept as singularity in which universality and particularity are sublated and (b) the opposition between form and content. The relation between these two structures is indicated in §§ 5-6, where the determination (or particularization) of the will's abstract and negative universality is equated with its acquiring *Dasein* and *content* (*Inhalt*). Within the framework of the abstract concept, universality and particularity are related as form and determinate being-there or content. The abstract or formal framework itself, however (summarized in the concept delineated in §§ 5-7), is a pure *form*, which must find *Dasein* or *content* in concrete kinds of willing. In § 8, these concretizations are called "forms (*Formen*) of will," although it is clear that they provide determinate *Dasein* or *content* to the formal concept of will. The expression "form of will" is justified, however, insofar as the opposition between form and content indicated in §§ 5-7 is subordinate to a consideration that is still very formal: the deduction of free will as presented in GrI 5-30 does not tell us anything about the concrete content(s) in which freedom must concretize itself.

From Concept to Idea (GrI 10-28)

The concept of will must be recognizable in all its concrete manifestations, but the degree to which these manifestations perfectly actualize that concept may differ. The boundaries within which

²⁵ On God as the union of the infinite and the finite in true infinity, see *Philosophie der Religion* (Jaeschke, Vorl 3, pp. 193-214) and the fundamental analysis of the *Logic*, GW 11, pp. 78-85.

the exposition moves are the "immediate" being-there of the will, described in §§ 10-12, and "the true idea" of free will anticipated in the last sentence of § 10 and achieved in § 21. Their difference is formulated as the difference between the will *free in itself* (*an sich*, § 10) and the will *free in and for itself* ("*für sich*, was er *an sich* ist," §§ 10, cf. 21 and 22). The unfolding of the will's concrete possibilities from § 10 to § 21 is again dominated by the distinction between *form* and *content*. The fully concrete *Dasein* of the will, its true idea, is the will that possesses itself as its "object and end," or whose content is identical with its form (§ 21). As identity of form and content, it can be called "the actually infinite" (*infinitum actu*, § 22, cf. § 27) in the sense explained above. The "immediate will" and all other kinds of willing that do not coincide with "the true idea" are finite because their form and content are not identical, but are to some degree opposed.

If the task to be achieved can be formulated in terms of form and content, we must answer the following question: When are the determinations through which the will determines itself (its content) identical with the self of the will (its form)? In other words, in what kind of willing does the will, as willing, coincide with the willed?

The deduction of the actualized concept or "idea" of free will proceeds by way of an analysis of its immediate concretization (§§ 10-12), which shows that the will in its finite realizations contains contradictions and, therefore, cannot be seen as existing independently or as an absolute. These contradictions are then unfolded (§§ 13-20) and overcome through the transition to the true idea of will.

The Immediate Will (Gr1 10-13)

Hegel here follows his usual method: having formulated an abstract concept of the issue at hand and indicated the necessity of its concretization in determinate kinds of *Dasein*, he considers the "*immediate*" realization of that concept.

As the adjective indicates, "the immediate will" is the will insofar as it is not mediated. It is the immediately given, empirical kind of willing that does not yet manifest the rational structure of mediation typical for the full truth (or true reality) of the will. As we saw in Chapter One, the general structure of mediation can be studied

by focusing on the syllogistic function of the middle term, but it is also present in all true concepts. In §§ 5-7 the mediating function of the particular is brought to light (§ 6), but in the form of "absolute negativity," mediation concerns the entire universe.²⁶

If all true reality is mediated, how then can there be anything immediate? Immediacy cannot be a concrete property of any actual thing or entity, because the actual is rational and reason always implies mediation; only dependent, abstract, and non-isolatable *moments* of things can be immediate. Immediate willing cannot, therefore, exist on its own, as an entity in and for itself, but only as an abstract and dependent "moment." As a moment or element it plays an indispensable role within the actuality of willing, however. The concrete entity or totality of which it is an element, is therefore also dependent on it. In scholastic terms, the moment of immediacy is a *principium quo*, not a *principium quid*; it is not an entity, but — similar to Aristotle's "matter" (*hylē*) — it is a constitutive element that can be distinguished though not separated (not even in thought) from the constituted thing of which it is a component.

Although immediate will is thus only a moment of the idea of will, several philosophers have seen it as an independent reality. They were seduced by the immediacy of its givenness: willing is immediately given in the form of natural drives, desires and inclinations.²⁷ Human nature displays the first mode of self-determination on the level of spontaneous, sensible, and natural tendencies in order to realize certain ends (§ 11). Do we have here the concrete actualization of the concept that has been defined in §§ 5-7?

Before we listen to Hegel's answer, let us ask why he lists needs, drives, desires, inclinations as the "first" or immediate *Dasein* of free will. Obviously, these belong to the natural and sensible dimension that was thematized by Kant as the domain of sensible

²⁶ Cf. Henri Niel, *La médiation chez Hegel* (Paris: Aubier, 1945).

²⁷ In GrI 5 Hegel identifies the immediate moment of willing as "needs (*Bedürfnisse*), desires (*Begierden*), and drives (*Triebe*)"; in § 5R, he adds passion (*Leidenschaft*); and in § 11 he writes: "Drives and inclinations (*Neigungen*) and the needs that are based on them . . ." A further specification of the generic "immediate will" is thus left open, but at no point is he interested enough in the affective side of willing to develop a systematic treatise on the emotions.

inclinations (*sinnliche Neigungen*). However, in the *Encyclopedia* of 1817, Hegel refers to this domain as the *second* moment of the will's *Dasein* (A 392), whereas practical feeling (*praktisches Gefühl*) is presented as the first and immediate concretization (A 389). Hegel maintains this sequence in the later versions of the *Encyclopedia*,²⁸ which makes it implausible that in 1820, he no longer saw practical feeling as an immediate expression of willing. It may well be that, in the *Grundlinien*, he wanted to offer a simplified picture of practical spirit, deeming it sufficient for the study of right. Or perhaps he found the thesis that feeling is a form of willing too difficult for his students. Focusing on drives and inclinations is indeed much easier than showing how practical feelings (moods, pleasures, and so on) realize the concept of free will. Moreover, in discussion with other philosophers, the order of inclinations was much more important than more elementary emotions.

Phenomenologists and true empiricists would begin a philosophy of drives by giving refined descriptions of various forms of being driven, inclined, attached, moved, touched, and so on, in order to discover their specific character, mode, structure, and temporality. Hegel, however, is more interested in the relations between the natural and the spiritual aspects of willing. He states only that we are driven by a natural dynamism that is already there, a thrust that "wills" in us, that threatens to overwhelm us if it is not restrained and canalized by other spiritual forces. Our drives must be made rational in order to be truly human. With some disdain he refers to the descriptions and classifications of "drives and inclinations and the needs that are based on them," as found in empirical psychology (§ 11A), but he does not deem a detailed analysis relevant for his theory of freedom. The only characteristics according to which he delineates the entire complex of drives, inclinations, needs, desires, and passions, are the following: they are *natural*, immediately given and found as facts (§ 11), manifold, indeterminate, mine, universal (found in every human being), and tending to a multiplicity of objects and modes of satisfaction (§ 12).

Having accepted this naturally spontaneous dynamism as a form of willing, Hegel now asks to what extent it is a realization of the

²⁸ Enc BC 470 and 474. See *Hegels prakt. Phil.*, pp. 35-69.

concept that has been defined in §§ 5-7. The three moments of the concept therefore return in §§ 10-13 as constitutive of the natural will, but Hegel shows that they are not realized appropriately by drives. A driven will is rather a caricature than an adequate actualization of willing. The basic concept of the will is here not manifest in its phenomenal existence, for being driven does not adequately realize the generic concept or "in-itself" of (will as) self-determination. The concept remains abstract on this level; it cannot unfold as a concrete *universal*. The truth of drives and inclinations remains a mystery as long as one concentrates on them without seeing that they are *subordinate* moments of a dynamism whose truth is only revealed in the appearance of a will that is *for itself* what its concept or *in-itself* is (§§ 10, 10R, and 21).

The inadequacy or finitude of the natural will can also be clarified as the non-identity or contradiction of form and content (§ 11). According to the concept of willing, the abstractly universal and indeterminate will (§ 5) necessarily determines itself by differentiation (§ 6). The differentiation of the *immediate* will is found in the naturally given multiplicity of drives, desires, and inclinations with their multiple ends and modes of satisfaction. As naturally given, their existence and multiplicity does not show their rationality; however, philosophical thinking discovers in them the conceptual core which is inadequately manifested in their existence. Drives and desires, etc., express something of the will's self-determining character insofar as they constitute a dynamism that is "*mine*." In following my drives, I am motivated by tendencies of *my own* toward ends of *my own*. However, the *form* of this self-determination, in which the true concept of will has a sort of shadow existence, and its natural, immediately given *content* do not coincide. The content has not been deduced from the concept (or the in-itself) of willing; it does not adequately translate the concept into the natural level of our corporeal and psychical being-there within the material world.

That the form and content of willing can coincide, will be shown in the further development of Hegel's ethical theory. If needs and passions are incorporated into the rational determinations of a truly free will, they concretize the system of obligations in which freedom diversifies its demands (cf. § 19R and the last Remark on § 150).

The dialectical relation between the first, *abstractly* universal moment and the second, particular moment of the concept, formulated in §§ 5 and 6, is reflected in the opposition between the abstract form of self-determination (§ 10) and the given multiplicity of its content (§ 11). The impasse caused by this opposition shows a twofold indeterminacy: each and every drive is (a) my own, and (b) itself a possibility of many different ends and modes of satisfaction (§ 12). It is impossible to be led by this emotional state of affairs: I cannot follow all my tendencies or even strive for all the ends of one tendency. Self-determination presupposes the abolition of this indeterminacy.

To overcome this impasse, a decision of the will is required by which the will determines the singular end it wants to adopt as its own determination. Without such a decision, the will cannot be actual, whereas the selective adoption of natural possibilities in singular decisions shows that it is the will itself (or the practical spirit) — and not a purely natural dynamism — that guides the process. Therefore the third, singularizing moment of the immediate will is not purely natural; rather than a final, concluding, or “closing” decision (*be-schließen*), it is an “unclosing” one (*sich entschließen*) by which the will, as if fertilized by its own natural emotions, gives birth to its own determinations and ends (§ 12). Hegel here uses the word “*sich entschließen*” in a sense analogous to that used in the transition from the logic to the philosophy of nature, where the idea “un-cludes” or “uncloses itself” to “release nature from itself” (Enc A 191). The will is thus seen as a more concrete name for the idea, or, as Hegel formulates it, “the infinitely fertilized original seed (*Urkeim*) of all *Dasein*” (§ 12R). It is obvious that Hegel here anticipates the fully developed idea of will instead of remaining with its immediate aspects. In the meantime, “the natural will” is seen as a constitutive but only subordinate moment of the fully actual will.

The inadequate character of the natural will is summarized in § 13. Its form is the concept as the universal moment of the will’s realization, but its content is the particular being-there (*Dasein*) of the concept. The decision provides the concept with *Dasein* insofar as it is the choice of a singular end by a singular subject. Since content and form are not identical on this level, such a choice or decision is only abstract or purely *formal*. Its content is not justified

by reason, but is chosen according to some unmediated or natural motivation; it does not necessarily follow from the will's essential freedom. We must then discover which determinations of the content, i.e., which specific and singular ends, must be realized to make the will *actually*, not only formally, free; only such an actualization can make us feel at home and be at home in the world and in our own body and mind.

A second aspect of the finitude that rules the natural will lies in the opposition of its aspects. This opposition belongs to the structure of consciousness, analyzed in the phenomenological chapter of Hegel's philosophy of spirit. As we saw, the subject-object opposition was overcome in the transition from the phenomenology (Enc A 329-359) to the psychology (A 363 ff.). Since reason (A 360-362) is the identity of subject and object and therewith of consciousness and self-consciousness, their identity is presupposed in all further developments of theoretical and practical rationality. The concept of will, for example, does *not* suffer from any opposition between subject and object. Willing is the subject *as* determining *itself* by drawing its determinations (and thereby its content or objects) *from itself*. However, as we have seen, the immediate or *natural* and therefore imperfect and finite realization of the will depends on determinations (ends, objects, modes) that are *given* to, but not produced by, the will itself, and decisions or choices on the basis of drives alone exclude other subjects and ends. The phenomenological opposition thus returns on the level of the will's natural immediacy: our inclinations draw us back to the pre-rational level of minds-in-opposition. Below, I will return to the difference between phenomenology and psychology when Hegel's own remarks on this difference (§§ 8-9 and 25-28) demand our attention.

Choice (Wille and Willkür; GrI 14-20)

The finitude of the natural will described in § 13 is further analyzed in §§ 14-20. The opposition between content (or *Dasein*) and form (the concept or the will "in itself") unfolds as a duality of given drives on one side and power of choice (*Willkür*) on the other. Hegel agrees with the scholastic tradition and with Kant that the full concept of will (*voluntas*) is *not to be identified with the ability to choose from various possibilities*. Both Kant and Hegel call

this ability *Willkür* (will as choosing), the German equivalent of the scholastic *liberum arbitrium* (freedom as arbiter). *In our time*, freedom of choice is often called "autonomy," but if we misunderstand Kant's and Hegel's conception of *rational* autonomy as equivalent to unhampered choice, their practical philosophy, including their fundamental ethics, will remain a mystery.

The distinction between *Wille* and *Willkür* is essential for Hegel's entire practical philosophy. He even accuses those who understand freedom as the "ability to do what one will" of lacking all theoretical education (§ 15R). It is, therefore, paramount to comprehend the difference between his idea of "freedom" and twentieth-century "autonomy." The difference has already come to the fore in the explanation of Hegel's deduction of the will (Enc A 386-388): if the will *is* rational and intelligent, it is a thinking will, which, as such, cannot act in an arbitrary, irrational, or purely contingent way. The abstract knowledge of this truth is not sufficient, however; it must become concrete through consideration of the ways in which the will relates to its counterfeits.

Sections 14-20 further develop the aporia that has emerged from the opposition between form and content in order to make the transition to another level of willing necessary. Choosing (*Willkür*) is the possibility of self-determination, insofar as it is simultaneously independent of *and* bound to natural drives (§ 14). It is contingent (§ 15) and has no measure by which it can justify its choices (§ 17); it cannot achieve final satisfaction because the contingent ends by which it allows itself to be determined force it on an endless hunt for all the natural possibilities that arise (§ 16).

The way in which Hegel deduces these properties of the *Willkür* can be summarized thus: the choosing subject (which is free in the formal and negative sense of § 5) sees itself confronted with the content of an innumerable variety of finite impulses together with their multiple ends and — this is new — with the external reality in which it must act. All the ends that are suggested by the outer and inner nature are only possibilities; none of them imposes itself as the one that *must* be realized. This leaves the subject itself indeterminate. The only possibility of actually willing is to arbitrarily choose, without rational justification (§ 14). Freedom of choice in this context means that the will is in a double bind: as

the power of abstracting from all realities, it is free from any determination, but as being "condemned" to choose, it is totally dependent upon given contents that are just there, neither chosen nor discovered as rationally necessary. Its ends are therefore simultaneously necessary (the will must will) and merely possible or contingent (the will is free to will). As the power of choice, the will is a contradiction; but if it were only that, its choices could never be rational. If I do what I want, my willing coincides with the strongest of the impulses by which I let myself be dominated (§ 15). Hegel has not forgotten the lessons of Aristotle, who taught that the passions must be ruled by *logos*, and of Kant, who defined morality as the ruling of the inclinations by the universal and necessary (or categorical) imperative of reason itself.

The opposition between the indeterminate form of the *Willkür* and the contingent ends suggested by natural inclinations cannot be overcome by arbitrary decisions because these unite form and content in a non-rational moment of satisfaction, immediately followed by a repetition of the same indeterminacy facing contingent possibilities. Nothing fundamental emerges from such a gap between an infinitely open willingness and an endless series of arbitrary determinations (§ 16). The only rational way of solving the aporia lies in a decision through which the will, in choosing among the ends of its natural inclinations, determines *itself in accordance with its own rational and intelligent essence* (§ 19). Such a determination is rational; it does not seek to deny or extirpate natural drives — this would even be impossible — but it refuses to obey the irrational dynamics through which they try to establish a dangerous tyranny. Practical reason (true will) is thus able to bring them under its own rule.

The contradictory character of the *Willkür* (§ 15) is clearly manifested in "the dialectic of the drives," which follows from their independence *vis-à-vis* the rational core of the will. Hegel here uses the word "dialectic" (in the sense of Kant's First *Critique*) to describe the struggle that necessarily emerges from the multitude of natural inclinations if these are not controlled or declared to be the criteria for our decisions (§ 17). Such a struggle is somewhat similar to the fight (*Kampf*) of a self-consciousness wanting to affirm itself against another self-consciousness, a fight that can only end in subordination or mutual recognition. The opposition

of irreconcilable drives cannot be resolved by a recognition of one another's equality because they belong to one will. Any decision demands the subordination or sacrifice of all inclinations but one. But how can such a decision be justified? Where do we find the criterion for deciding rationally, i.e., to discover and will what reason itself wills?

Utilitarianism appeals to the intellect (*Verstand*) in order to escape from arbitrariness, but as long as reason (*Vernunft*) does not rule, *Verstand* can only weigh and calculate the degree of satisfaction (pleasure or "value") that can be expected from realizing this or that natural end. In doing so, it becomes entirely dependent upon the emotional dynamics of drives and passions, thus missing an opportunity to realize the essence of humans as *rational* (i.e., reason-able) animals (§ 17). Utilitarian comparisons and calculations do not constitute evil, but neither can they found an ethics. Through the systematic pursuit of the utmost satisfaction, *Verstand* civilizes human nature. "Formation" (*Bildung*),²⁹ in the form of selection, shaping, reshaping, refining, and cultivation, results from our striving for happiness (§ 20). Hegel here retrieves Kant's analysis of eighteenth-century eudaemonism and his evaluation of prudence (*Klugheit*) and well-being (*Wohl*) in relation to reason's demand for the good (*das Gute*). The good itself does not lie in the formal generalities that result from the utilitarian perspective on nature and human sensibility; it lies in the will's concrete universality (or rationality) as differentiating itself into its *own* natural dynamism (§ 21). As practical reason, the will expresses itself in the well-organized dynamics of a *good* emotional life, whose affective content translates the concept (or *form*) of willing into an appropriate system of determinations. The latter are simultaneously the elements of a given but entirely integrated and obedient nature *and* products of the will that wills them as the actualization of its rational originality (§ 21). Form and content finally coincide; the contradictions that emerged from the absolutization of the will's moments are overcome; the abstract concept of freedom (the free will as it is in itself, §§ 5-7), determines itself by revealing its natural determinations as its own freely

²⁹ "*Bildung*" is both education (including adult education), formation (including self-formation), and (2) cultivation, culture, etc.

willed specification. The three moments of the will, as it is in itself, are thus actualized: the will is *for itself* (actual and manifest) what it is *in itself* (its concept); (1) the *concept* of freedom has (2) actualized itself as (3) the *idea* of freedom (§ 21).

Is the Natural Will Evil? (Grl 18)

In § 18 Hegel presents a kind of scholium that at first sight does not seem to fit into the pattern of a deduction of free will. The question of whether human nature is good or evil, though a recurrent one in Western theology of freedom, seems to presuppose a finished treatise on freedom as such. However, when theologians spoke of "human nature," they focused on the question of whether the human will was fully free or rather wounded, "enslaved," or "corrupted" by original sin. Modern philosophy had proposed more secular theories about the radicality of evil that seems to accompany human freedom. Rousseau, for example, had opposed the original goodness of (*the state of*) nature to the corruption of (*the state of*) culture, while Kant had contrasted "nature," as the sum total of matter and the senses, both with spirit as the rational and with the self-betrayal of the will, as seduced by a penchant for evil. Hegel follows Kant in calling needs, drives, inclinations, passions, and feelings "natural," while opposing them to the will as essentially spiritual. In these terms, he answers a question somewhat similar to those of Rousseau and the traditional theology (Grl 18).

Hegel's question and his response direct our attention to the normative aspect³⁰ of the deduction that is given in Grl 5-28. By emphasizing that drives and inclinations introduce finitude, potentiality, contingency, and aporetic structures into the will, the text might seem to suggest that the natural dynamism takes away freedom and rationality, enslaving us to the powers of nature against which we are without recourse. However, such an enslavement of the will is not possible unless the natural dynamism is made into something isolated and absolute. If we are capable of taking up our passions and inclinations in a rational way, that is, by

³⁰ For the indissoluble unity of the descriptive and the normative aspects of Hegel's philosophy of the spirit as practical, see *Foundations*, pp. 349-365, and *Hegels prakt. Phil.*, pp. 99-108.

integrating them as elements of willing according to its own (practical) reason(ability), they are the *indispensable embodiment or "naturalization" and concretization of human spirituality*. In itself, i.e., as an abstract, but (co)constitutive moment, human nature is *neither good nor bad*. Its value depends on the manner in which the spirit directs, "uses," rules, and orders its natural expressions, while determining its own activity in them. A decisive evaluation is possible neither from the perspective of the drives themselves nor from that of arbitrary choice. Neither utilitarianism nor eudaemonism can offer us a criterion for good and evil. If we adopt their viewpoints, we are stuck with the following contradiction: since the determinations immediately suggested by our natural drives are constitutive, normal, and inseparable from these drives, they are appropriate or "good" from the perspective of nature and its possibilities. "Good" does not then have a moral or ethical, but rather a "conditional" and "technical," meaning, if we may borrow these terms from Kant. They are bad, however, insofar as the natural character of the drives is presented in contrast with spiritual demands — not because they are drives or because they are immediately given, but because of their anti-rational and anti-spiritual character. *To that extent*, they, or rather their *opposition*, must be extirpated. The strong expression *ausrotten*, used in this context (§ 18), does not mean that freedom would demand repression or denial; rather, it indicates the evil of dissoluteness and the need for disciplined formation (*Bildung*), civilization, and "rationalization" of the passions. Hegel calls such discipline a "purification" (*Reinigung*). By using the word *Reinigung*, Hegel gives a rather Kantian interpretation of the kathartic tradition that reaches back to Pythagoras, Empedocles, and Plato. His interpretation of purity ignores the question of whether some drives or desires by themselves are more pure than others. Like Kant, he subordinates the totality of desires and inclinations to the sole rule of reason, but in a more Aristotelian and Neoplatonic vein, he thinks that the will, as practical reason, can transform human passions into necessary elements of the spirit's incarnation. It is the task of the philosophical science of right (§ 19) to show how this transformation constitutes the systematic hierarchy of a corporeal and historical world that is free.

Summary (Grl 21R)

In a Remark on § 21, Hegel summarizes the main steps of his deduction by indicating the three levels that constitute “the will in and for itself” (§ 21) or “the free will that wills the free will” (§ 27):

(1) In desires, drives, inclinations, and passions, the will — as the sensible self-consciousness of practical spirit — is outside of itself because sensibility is exteriority;

(2) as the faculty of choice, the will is “reflecting” because it is caught between the particularities of its affective dynamism and the universality of its intelligent rationality (or “thinking”);

(3) as determined by *rational* affections and inclinations that are positively willed as concrete expressions of its own practical rationality (or autonomy), the will is the origin and end of its own activity.

In their immediate givenness and not-yet-integrated isolation, drives and inclinations are a subjective form of freedom, dominated by impulses that, as such, are not (yet) rational. They become rational, however, when they are transformed into moments of a universal, necessary, and “objective” system of willing and acting. Such a system is the work of spirit itself, which then rationalizes and spiritualizes the natural elements of its self-realization by integrating them as moments of its own “world”: the world of “right” as the “world of the spirit, produced out of the spirit itself” (§ 4).

Hegel wants to stress in his summary (§ 21R) that true freedom cannot exist on any level below that of thought, intelligence, reason, and spirit (in the emphatic sense of his psychology or pneumatology). Self-consciousness is not enough, but once the self-conscious subject has been elevated to the level of reason and thought, is it capable of acting freely; only then can it be a subject of rights to whom respect is due. “*The will cannot be a true and free will, unless it is thinking intelligence*” (my emphasis). Freedom is thus *not* found in the recognition of another self-consciousness as identical with my own, but *only* on the level of spirit, i.e., of a self-consciousness that, in addition to being conscious of itself as universal, knows its rational, spiritual, intelligent, and willing essence. The summarized deduction of freedom (Grl 5-21) cannot be ignored as if a phenomenology of the *mind* were sufficient to found human rights.

Free Will (GrI 21-24)

Sections 22-24 elucidate some of the properties of freedom defined in § 21. As free in and for itself (§§ 10 and 21), the will is "actually infinite" (§ 22), "absolutely at home in itself," (*schlechthin bei sich*, § 23) and concretely universal (§ 24).

The free will's infinity is the sublation of all the contradictions that haunt its subordinate moments. Concept (the will's interiority) and *Dasein* (its exteriority), form and content, possibility (*dynamis*, *potentia*) and actuality (*energeia*, *actus*) are identical in the freedom of a will that wills itself. All forms of otherness (object, content, exteriority) are integrated into the will itself. This is no longer an empty potentiality or a disposition open to all possible fulfillments, but the actual willing of itself. Nothing opposes it as an unconquerable limit. The will is able to assimilate and integrate all tendencies as aspects of its own freedom. As the unlimited return into itself, free will is an infinite actuality (§ 22).

Since nothing escapes the will's integrative self-determination, all its relations "to any other reality" are willed as relations to itself. The will is thus not dependent upon anything else, but *bei sich*, at home in its own free origination of the willed (§ 23).

Perhaps Hegel is here alluding to Aristotle's definition of the free man as someone "who is for the sake of himself and not [for] anything else" (*heautou heneka kai mē allou ōn*, *Metaphysics* A2, 982b25-27), as Joachim Ritter suggests.³¹ If so, he here associates Aristotle's notion of freedom with Spinoza's characterization of the divine substance as *actu* (not potentially) *infinite* (cf. § 22).

That free will is *true* in the full and concrete sense of truth (§ 23) follows from the identity of the concept with its *Dasein*, but Hegel's translation of this identity into the Kantian and Schellingian terminology of pure (*a priori*) concept and intuition (*Anschauung*) is novel: the goal of the (concept of) will lies in the intuition of its (*a posteriori*) realization.

The actualization of freedom's conceptual structure is manifested most clearly in its concrete universality (§ 24). The singular decisions by which the will ends the struggles of its spontaneous tendencies is the appropriate concretization of its unlimited

³¹ Joachim Ritter, *Metaphysik und Politik: Studien zu Aristoteles und Hegel* (Frankfurt/Main: Suhrkamp, 1969), p. 197.

universality. The unfolding of the initial concept of freedom seems to have come to an end when Hegel, in § 24, (a) affirms that the differences between the conceptual moments of abstract universality, particularity, and singularity (§§ 5-7) are sublated through their mutual inclusion in the will's concrete universality; (b) states that the opposition between form (concept) and content (object or end), an opposition that dominated the entire development of §§ 10-21, is overcome; and (c) articulates the unity of the will's being *for itself* what it is *in itself*, announced in § 10. However, by adding the adjective "subjective" to the will's "being for-itself" and "*exclusive*" to "deciding singularity"³² in § 24, Hegel reintroduces the opposition of subject and object into the dimension of practical spirit. This opposition was paramount in the phenomenological part of Hegel's philosophy of spirit, but it remains a subordinate element in his psychology. It is important, however, to maintain the distinction between the phenomenological and the psychological dimension and not to confuse them in a reconstruction of Hegel's theory of freedom and right. By adding sections 8-9 and 25-28 to the psychological concept developed given in sections 5-7 and 10-24, and by inserting some remarks in the course of his deductions, Hegel himself stresses the difference between his phenomenology, which is a theory of consciousness, and his psychology or theory of theoretical and practical spirit.

Philosophy of the Will versus Phenomenology (GrI 8-9 and 25-28)

Those whose philosophical discourse on right, morality and ethicality wants to exclude thinking, referring to feeling, heart, interiority and inspiration, express the deepest contempt into which thought and science have fallen, because through them even science itself has drowned in self-despair and extreme debility, making barbarism and thoughtlessness its principle and, as much as it can, robbing humanity of all truth, worth, and dignity (GrI 21R).

The deduction of the idea of freedom as *actualized* concept (or rational actuality) in which all contradictions are sublated, has shown that the will cannot be determined by any alien reality; all its determinations, including those suggested by its natural

³² Nisbet translates "*beschließende Einzelheit*" as "resolving individuality."

tendencies, are chosen, willed, determined by the will itself. It is concerned with *its own determinations only*. If we view the objects or ends of the will and the necessary modes, structures, and institutions in which it concretizes its freedom as "objective," whereas we see the willing itself as a "subjective" activity, it follows that the distinction between the will's subjective and objective sides indicates an immanent difference, not a contrast between the will and some other thing. Therefore, free will cannot be analyzed as a subject confronted with an object external to it: the "outer" world, the body, or some unfree depth of the soul. Such confrontations are typical from the perspective of *consciousness*, but the phenomenological perspective is not spiritual enough to see that subject and object are integral moments of the *self-determining* and *self-determined* identity of the free will that is for itself what it is in itself. What Hegel wants to clarify in §§ 25-28 is that *the level of consciousness and self-consciousness is subordinate to the level of the will's freedom*. As long as consciousness is unable to assimilate the outer object (including the other consciousness to which it is related) as an integral moment *of itself*, it remains finite and unfree. Only a thinking and willing self-consciousness can overcome the oppositions involved in its relations to other realities by integrating them as constitutive moments of its own self-identification. Its actuality is an objective but rational system of determinations, both thought and willed by the determining and determined reason of the subject (§ 27).

The difficult sections 8-9, whose meaning on first reading may seem enigmatic, have been inserted³³ as a warning that Gr1 5-28 should not be interpreted as a phenomenological analysis, but instead as a theory of practical reason (or spirit), i.e., as a reconstruction of the concrete idea of free will. To read the deduction of §§ 10 ff. as a theory of consciousness or self-consciousness, is to miss the will itself by focusing on its *appearance* only: the dialectic of subjective consciousness and an objective world. The problem is then how a self-conscious subject can translate or transpose its subjective purposes into objectivity (§ 8). Only a *thinking* (i.e.,

³³ For a demonstration of this, see "Zur Hegelschen Ethik," in *Theorie*, pp. 116-124. There I also offer a comparison of these sections with the deduction found in Homeyer's notes of 1818-19.

reason-able and spiritual) consciousness can comprehend that the objectivity in which the will must be actualized, is not alien to it, but rather the manifestation of its own self-determination.³⁴

Hegel's concern, expressed in a few metatheoretical remarks, becomes obvious, if these remarks are read in connection with the anti-subjectivistic rhetoric of his Preface.³⁵ If people do not "think," i.e., if they remain on the level of a self-conscious subject confronting the world, instead of considering things from the perspective of faith in Reason, they can only be disappointed and threatened by the objectivity of a world that does not seem to mirror their subjectivity. They then remain fascinated by this scission and risk indulging in powerless moralism or rebellious destruction. However, true freedom is less subjective, more powerful, and more rational than any singular or collective consciousness. It is free will that possesses us rather than the other way around. Humans *are* rational; *they cannot choose to have or not to have reason*. But they can and must become conscious of their reason, which, as the fundamental identity of subject and object, rules their consciousness, pushing it to universalization through willing. While individual subjects can act in irrational ways, Reason is powerful enough to actualize itself through history. The perspective of consciousness is petty in comparison to the perspective of the Spirit's history.

The actualization of intelligent freedom in the form of a *world* makes the self-conscious subjects feel at home in objective institutions that embody the concept of will (§ 26). The other senses of "objectivity" and all senses of "subjectivity" indicated in §§ 25-26 refer to one-sided, subjectivistic attitudes that should be abandoned if we want to *think* instead of relying on arbitrary opinions, feelings, impressions, or dogmas.

³⁴ GrI 9. Cf. also § 13, where Hegel refers to § 8 for the "finitude" of the will "as consciousness." In § 15R, the true will is contrasted with "the formal universality and unity of self-consciousness" defined as "*abstract* certainty of the will about its freedom," which "does not have itself as its content." In § 21R, Hegel says that only a self-consciousness that lifts itself up to the level of thinking, and thus is able to grasp its thinking and willing essence, can liberate itself from contingency and untruth. According to § 24R, true freedom, as concrete universality, constitutes the substance and the immanent genus or idea of self-consciousness, which is its appearance.

³⁵ Cf. *Philosophy and Politics*, pp. 70-82.

With the help of the distinctions provided in §§ 25-26, Hegel can then describe the result of his investigation. As will that wills itself, the free, infinite, and actual spirit (§§ 21-22) is the active objectification of itself in the senses indicated in α and β of § 26: (1) the concept of free will concretizes itself in an existing system of freedom, i.e., in an objective totality of rational determinations (§ 26 α); (2) practical spirit objectifies itself (§ 26 γ) in the exteriority of immediate *Dasein* as a second nature (§ 4) and a world of freedom (§ 27).

From the subordinate perspective of a singular will, the spirit's willing self-actualization appears as a task for the self-consciousness of individual subjects. These subjects find themselves confronted by the immediacy of the existing exteriority and try to realize their subjective ends (§ 25 γ) in the objective world (§ 26 γ). However, the standpoint of the phenomenological subject is only the appearance of a deeper origin: the spiritual substance that develops into a totality of objective determinations (§ 26 α), objectifying itself in the external world (§ 26 γ), but at the same time remaining (in) itself (and thus retaining and confirming its subjectivity in a sense more concrete than any of the three one-sided or abstract senses of § 25).

The relevance of Hegel's emphasis on the difference between phenomenology and psychology needs to be underlined in any discussion of his conception of freedom, right, *Geist*, and philosophy in general. The "soil" in which right is rooted (§ 4), is not the "autonomous" power of choice in human individuals; it cannot be found in any kind of convention or contract. Free will is not a faculty or property that we can manipulate; as practical reason and spirit, it constitutes humanness and thus "precedes" or "grounds" all choices, rights, contracts, and communities. Freedom, whose divine properties are displayed in §§ 21-24, is the *substance* (§ 4), the "substantiality" (§ 7), "the substantial essence" (§ 19), "the substantial," and "the substantial content" (§ 28) of right. In § 7, Hegel compares this substance to the weight or gravity that is the substance of solid matter. We have also seen how he opposes free will itself (its concept and *Bestimmung*) as *essence* to its *appearance* in the willing of conscious subjects confronted by objectivity. The choosing wills of individual subjects and the right of subjectivity, which is treated in the chapter on morality, are essential *but*

subordinate moments of the idea of freedom as the self-actualization of the spirit. The perspective of consciousness (or "mind") belongs to a lower level of this self-actualization. On the level of "spirit as it is in and for itself [. . .], the relation of consciousness constitutes only *the side of the will's appearance*, which here [on the level of the pneumatology] no longer concerns us" (§ 8). Because the spirit is the sum-total of all actuality, it cannot be related to anything else. Its activity "starts from itself only, and relates to its own determinations only," as Hegel writes in section 363 of the *Encyclopedia* of 1817, to which Gr1 8 explicitly refers. In concreto, this means that the will of the spirit, a will that encompasses reason and practical intelligence, actualizes itself as a rational system of drives and inclinations. The actualization of the will's rationality exists as a world of right.

Résumé (Gr1 5-30)

The abstract concept of willing (§§ 5-7) realizes itself in finite configurations (§§ 10-12 and 14-20), but integrates these as moments of its infinite self-determination (21-24). The development of the concept into the idea of free will is ruled by the (onto)logical dialectic of form and content.

In a metareflection on this development, Hegel has added sections 8-9 and 25-28, in which the will's finite moments and its infinity are analyzed from the perspective of another logical tension, namely, that between subject and object, which belongs to the philosophy of consciousness. These sections form a meta-reflective framework that encompasses the deduction of §§ 10-24 and also clarify the spiritual, not phenomenological, level on which the deduction proceeds. At the same time, however, sections 8-9 and 25-28 prepare the transition from the spirit, in its subjective, practical form, to its objectification (§§ 29 ff.): the concept of free will and its *Dasein* as right are related as a subjectivity that wills its own objectivity. The essential unity of subjective and objective spirit remains hidden in the will's finite configurations (§§ 10-20), which is why it takes the form of a demand (§ 19) or *Sollen*.³⁶ In its

³⁶ Herein lies the source of the *Sollen* that permeates Hegel's entire philosophy. See *Logic*, GW 11, 73 ff. and below pp. 229-231, 275-277, 309-317, 581-585.

infinite actuality, the idea of free will (§§ 21 and 27) is the concrete totality of objective (self-)determinations thanks to which singular subjects can actualize their own rationality in worldly activities.³⁷

A Schematic Overview (Grl 1-33)

The result of Hegel's deduction can be represented in the following schematic presentation:

³⁷ From the preceding rendition of Hegel's deduction in Grl 1-30, it can be seen to what extent I disagree with Robert Pippin's commentary on the same sections in "Hegel, Freedom, and the Will," in *Siep, Grundl.*, pp. 31-53). Since the will is practical spirit, the fundamental issue is the concept of spirit and its practical actualization. Pippin argues against any interpretation that sees Hegel as the defender of "an immaterialist or mentalist metaphysics" (p. 39) and *Geist* as "a thing" (p. 45). He appeals to Hegel's "remarks in § 381 of the *Enzyklopädie*" (Pippin probably means the *Zusätze*, taken from Hegel's earlier courses) to state "that he has clearly rejected the Kantian solution (that the intelligibility of our practical lives requires the assumption of a discontinuous or non-natural, noumenal realm of *Geist*) and has announced his own proposal in a distinctly 'logical,' neither metaphysical nor substantialist, manner: *Geist* is the 'truth' of nature, not at all 'other' than nature, even if the notion of spirit is not itself fundamentally a natural category" (pp. 40-41). In a note (p. 41, n. 11), Pippin acknowledges that the passages to which he appeals in his article "can be read in a very different way" and he concedes "that much more discussion would be necessary to adjudicate the two readings" he mentions. My main contribution to this discussion can be found in the Introduction and Chapter Two of this book and the articles "'Ken uzelf' of 'Wat is filosofie van de geest,'" and "Hegels definitie van de geest" (see. 121 note. 12). With regard to Pippin's interpretation of Hegel's crucial statements in Enc C 381-384, I only want to mention that Hegel himself clearly states that nature is the other (*das Andere*) of the spirit in the very *Zusatz* to Enc C 381 to which Pippin appeals. The text opposes and unites nature, as other (*das Andere, das Anderssein*), to spirit by declaring that the distinctive determination of the spirit lies in its "ideality, i.e., in the sublation of the being-other of the idea, the returning and having returned of the very idea from its other into itself, whereas the distinctive [determination] of the logical idea is the immediate, *simple being-in-itself*, while the distinctive determination of nature is the *being-outside-of-itself* of the idea." Furthermore, in numerous places (several of which are listed in Hermann Glockner's *Hegel-Lexikon* and the *Register* of Suhrkamp's *Theorie Werkausgabe* under *Geist* and *Substanz*), Hegel declares that "the truth," "the idea," "the absolute," "God," the actual (*das Wirkliche*), and "the spirit" must be comprehended not only *as substance*, but also *as subject*. Of course, "substance" (in which Hegel retrieves Aristotle's *ousia*, as well as Spinoza's *substantia*) is not "a thing" (GW 11, p. 327) and certainly not a merely mentalist entity, but — as the *Logic* tells us — "being that is because it is; being as the absolute mediation of itself with itself; [. . .] unity of being and reflection" (GW 11, p. 394).

1-3: Object of the philosophy of right

4: Right is actualized free will

5-7: The (abstract) *concept* of free will

8-9: Freedom of the will is a spiritual, not a phenomenological concept

10-24: Actualization of the concept of free will

25-28: The idea of free will is an identity of the subject and the object

29-30: Right is the *Dasein* of free will

31-33: Method and division of the philosophy of right.

This schema shows how the entire Introduction to the *Grundlinien* is the elaboration of a simple nucleus. The literary and conceptual unity of its composition is reinforced by four inclusions: §§ 1-3 and 31-33 form the frame for a smaller frame, expressed in §§ 4 and 29-30, which in turn frames §§ 5-7 and 10-24, while §§ 8-9 and 25-28 form two rhyming scholia on §§ 5-7 and 10-24. Hegel adopts and transforms a didactic device of eighteenth-century scholasticism by giving a “definition” of the material object (§§ 1-4) and the formal object (§§ 29-30) of the discipline, followed by a word on the method (§§ 31-32) and a *divisio* (§ 33). To explain his definition, he explains what free will is (§§ 5-7 and 10-24); to indicate the dimension within which his definition and explanation are valid, he sketches a meta-theoretical framework (§§ 8-9 and 25-28). In sum, the Introduction defines the philosophy of right as the science of the free will’s actuality.

Right (GrI 29-30)

The circle is closed: Right is “the *Dasein* of free will” (§ 29) or “actualized freedom” (§ 4). The *idea* of freedom (or the no longer abstract, but actualized concept of free will) is the *concept* of right. This concept must now, in its turn, actualize itself to become the *idea of right* (§ 1), and the unfolding of this new actualization is the task of the philosophical science of right (§§ 1 and 31). Because freedom is “the highest determination of spirit,” right is sacred — the most sacred of all objective realities. However, few people know what this means. Most will understand this in terms of Kant and Rousseau, who see freedom primarily as the free will of

singular individuals. Rousseau's conception is the worst because he builds his theory of freedom and society on the conviction that true freedom lies in the singular wills of individuals who follow their own *particular* wants. Kant does distinguish freedom (as practical reason) from arbitrary choice, but (a) the universality of his categorical imperative is too formal, and no specific obligation can be deduced from it, and (b) he implicitly accepts Rousseau's view when he presents right as a mutual limitation (*Beschränkung*) of everyone's freedom of choice or *Willkür*.³⁸ Limitation or finiteness in general is always an indication that something is not entirely rational. The irrationality of Rousseau's basic idea became manifest in the Terror of the French Revolution, when individuals let passion, not reason, guide their wills.

Another form of limitation is mentioned in § 30, particularly in the accompanying Remark. Herein lies the first hint at a differentiation of "right" into three domains called, respectively, *abstraktes Recht* or right in a narrow sense, "morality" (*Moralität*), and ethicality (*Sittlichkeit*), the latter of which encompasses, among other things, the constitutional right of the state and the right of the world spirit. The configurations in which "right" (in the broadest sense of objective freedom) diversifies itself are the modes in which it acquires concrete reality. Taken in isolation from one another, these modes are finite and *abstract* or formal: only single moments of the complete actualization of "right" as the totality of a free world. Just as the various moments of free will were unfolded as more or less formal or concrete determinations, so the different configurations of right are only abstract moments of one concrete world. Collisions between them, for instance, between right (in the narrow sense) and morality, are possible only when they are seen or practiced as independent realities. Since they actualize different aspects of one overall idea of "right," they cannot contradict one another as long as they fulfill their proper function within the whole. They do not have the same dignity, however, because they differ in degree of actualization. This difference is expressed in a hierarchy that orders all configurations by means of superiority and subordination.

³⁸ Cf. Kant's *Metaphysik der Sitten, Einleitung in die Rechtslehre*, § C, Ak. VI, p. 231.

Hegel's unfolding of "right's" self-differentiation is the usual one: beginning with its most abstract mode, he shows how the differentiation necessarily develops into more concrete modes, until the full actuality of the idea comes into sight as their concrete summit and totality. As always, the progress from the initial stage to the last is, at the same time, an ascent to the encompassing summit and a descent into the original ground or substance. All varieties of right receive their legitimation from this substance; cut off from it or resistant to subordination, they are not only limited, but "substance-less." In an often overlooked phrase at the end of § 30R, Hegel warns the reader of the ultimate horizon within which his book must be read: "only the right of the world spirit is the unlimitedly absolute." Hegel's philosophy of right is thus neither a philosophy of law, nor an ethics, nor a philosophy of the state; it is a philosophy of freedom as actualized in human history.

Method (GrI 31-32)

In summarizing his method, Hegel insists on the immanent movement of the concept, through which it produces its own diversifications and its transformation into other concepts. By unfolding itself, the concept generates the totality of truth that must be affirmed of it. The "dialectic" to which Hegel appeals distinguishes his method from all other methods according to which thinking consists in the application of concepts to given phenomena.

Hegel's conception of dialectic differs from any conception that understands and practices it as a merely negative destruction or confusion of certain concepts or theses in the style of Zeno, a style that can also be found in some dialogues of Plato and in Kant's *Critiques*.³⁹ The purpose of that approach is to critique the uncertain, relative, or contradictory character of assertions or positions. Though Hegel maintains the negative character of dialectic — it is the *negative* rational moment of his method — he emphasizes that, as "the dynamic principle of the concept" (§ 31 R), it has a positive

³⁹ For Hegel's interpretation of the dialectic of Zeno, Plato, and Kant, see *Geschichte der Philosophie*, Su 19, pp. 64 ff, especially 79-86, 295-305, 317-319; GrI 31R and the note on Solger in GrI 140R (p. 137).

result: by revealing the limitation of a concept, and thus its relation, opposition, or contradiction to other finite concepts, it produces a new positive concept. The negations produced through the dialectical principle are negated by this same principle, which, through its double negation, develops the initial content into a richer one, thus guaranteeing the immanence of the (onto)logical process.

Besides its negativity, a second characteristic is essential for Hegel's dialectic. It is not a subjective consideration that externally imposes features or relations onto an objective reality, as if there were a gap between the subject's "ideas" and the phenomena. Since the basic thesis of the logic affirms that being and thought are one and that logic is ontology, it is obvious that the dialectic of the concept is identical with the dialectic of the idea and all reality. The doubly negative dynamism of the conceptual development is the inherent dynamism of the objective universe; "the object [itself] is rational [in and] for itself." Hegel's "dialectic is [. . .] no *external* action of subjective thought, but the *proper soul* of the content, which produces its branches and fruits." It is the "unfolding of the idea as the proper activity of *its* reason" (my emphasis), not anything subjective that adds something to the studied phenomena. To express the non-subjectivistic character of his idealism, Hegel often compares his logical developments with the mere observation of an objective reality that develops itself before the eyes of the observer; however, it is clear that thinking itself is a constitutive and inseparable element of the actuality that displays itself.

It is the spirit in its freedom, the highest summit of self-conscious reason, which gives itself actuality and generates itself as [an] existing world. The only task of science is to bring this work of the issue's reason itself to consciousness (§ 31R).

The last lines of § 31R anticipate § 32, which reminds the reader that each concept not only develops itself into other concepts, but, being essentially an idea, also generates its own *Dasein* in an existing configuration (*Gestaltung*). If philosophical knowledge is a system of necessarily linked concepts, it is also a systematic comprehension of the particular phenomena in which the conceptual determinations become empirical.

This reminder accords with Hegel's general logic of the idea (Enc A 169-190; BC 223-243) and his introductions to the philosophy of nature (Enc A 192-193R) and the philosophy of spirit (Enc A 301; BC 380). However, there is a difference between the conceptual process and the temporal succession of phenomena: the latter does not necessarily run parallel to the former. In Enc BC 380, Hegel indicates that several determinations of the spirit do not have any independent existence, but only exist as dependent moments of other, higher configurations of the spirit. His examples of such "lower," dependent "stages" or moments are here confined to aspects of subjective spirit, such as feeling (*Empfindung*), awakening, or madness. Higher levels to which such moments owe their reality are, e.g., consciousness, the intellect, and religion. Although feeling, awakening, and madness have their proper place in a linear deduction of their conceptual determination, their phenomenal existence cannot be perceived or represented without anticipating more developed phenomena. We can apply the observation of Enc BC 380 to several phenomena of the objective spirit. In GrI 32R, Hegel himself mentions property, contract, and morality as determinations of "right" that conceptually precede the fully developed concept of the family, which, on the level of historical reality, may precede the historical *Dasein* of the first three institutions mentioned above. Though the family cannot be fully understood without seeing how its concept implies the concept of personality, property, contractuality, and morality, it is older than the independent realizations of personality, property, contract, and morality. In the primitive family, these moments are only implicit and undeveloped.

Hegel's unfolding of the objective spirit's constitution, therefore, cannot be read as a kind of phenomenology in which the simplest and most elementary phenomena of right are found in the first period of history, while the most complex ones emerge at the end of time. "Higher" and more encompassing institutions can exist in ancient times, but in that case their constitutive elements were not yet fully unfolded. The state, for instance, is an old institution, but its full complexity, and especially the individual freedom of its citizens, needed more time to become an established reality.

Division (Grl 33)

Hegel's treatises follow a consistent pattern: after the introduction and definition of the issue at hand, he briefly indicates his method and presents the main articulation of his treatment. The *deductio*, the material and formal *definitio*, and the *divisio* of the scholastic handbooks are clearly retrieved and "dialecticized." We have seen how §§ 4-30 of the *Grundlinien* offer the deduction and definition of "right," while §§ 31-32 and a few remarks in §§ 1-30 briefly remind us of Hegel's logic, without, however, dwelling on the difficult question of how the logic displayed in Hegel's *Logic* operates within the dimension of objective spirit. The last section of the Introduction (§ 33) presents the *divisio* as a progressive development of the idea of "right." It displays three main dimensions which again comprise various subordinate levels and moments. Hegel claims that the progression is ruled by a logical necessity, which he briefly indicates, thus sketching a summary of the analyses and conceptual transitions that will follow. In anticipation of difficult deductions, this summary is so dense that a clarification will be delayed until we have studied those deductions in more detail. In any case, it is clear — and Hegel once more insists on this in the Remark on § 33 — that the articulation of his book and all its deductions cannot be justified by any induction or external principle, but only through "the immanent [self-] differentiation of the concept." Beginning with the abstract and immediate concept of "right," whose phenomenal existence is an inadequate *Dasein* of its true content, Hegel will show how "right," through its "reflection in itself," will develop itself into the actuality of its idea.⁴⁰

⁴⁰ For an "easier," more "exoteric," and more enthusiastic treatment of free will as the source of the moral, legal, and political actuality of the post-revolutionary world, see the end of Hegel's courses on the philosophy of world history (*Weltgeschichte*), vol. 4, pp. 922-938.

CHAPTER FOUR

PERSON AND PROPERTY

The first chapter of Hegel's book treats the most immediate form¹ of the free will's objective realization. This form is not the foundation of his system of "right," but it is the first, most elementary yet essential element of that system. The true foundation lies in the freedom of the spirit, whose structure has been sketched in the preceding two chapters. What must now be unfolded is the range of concrete phenomena and institutions in which freedom is actualized more or less adequately. The first element, "abstract right," is only one moment of the concrete world of freedom in which we participate; as such, it is one of the conditions of freedom rather than a concrete phenomenon by itself. The criterion according to which we can evaluate the various phenomena in which "right" (in its broadest sense) seems to realize itself, and which will be the guiding thread for this exposition, lies in the (still very abstract) idea of freedom as self-determination and of right as its necessary actualization. These ideas, which were the result of the deduction outlined in the preceding chapters, must now be developed in all their worldly concreteness.

It is important to remember that Hegel's analyses in his first chapters cannot be read as a description of the concrete legal, moral, familial, social, and political reality in which we live, but only as the unfolding of its abstract structures and moments. As we

¹ "Immediate" or "unmediated" is the word Hegel often uses at the beginning of a development to indicate that the new topic presents itself at first as a mere given — neither reflected upon nor understood. As the result of a former development (e.g., in the case of right, the unfolding of the concept of will) the issue at hand elicits our reflection, which then looks for a new mediation (*Vermittlung*) through conceptual analysis and synthesis. Immediate right is therefore the least complicated, elementary, and "primitive" kind of "right." While its unfolding in property and contract right shows parallels with the field of private law (*Privatrecht*), Hegel's "abstract right" also encompasses criminal law (*Strafrecht*), but lacks family law.

will see, it is only in the state, as the community of its citizens and the totality of their life within the institutions and traditions of their nation, that the concrete objectivity of freedom is realized as completely as possible. This totality must be held in view as the whole within which all the analyses that lead to it receive their final, concrete meaning. Not only is the chapter on abstract right, abstract and provisional, but likewise the chapter on morality, and even the first two parts of the chapter on ethical life (i.e., the treatises on the family and civil society). Their full truth cannot be shown until we understand how they function within the ethico-political context of the nation-state of which they are subordinate components. It would be a serious mistake, especially for the interpretation of the chapters on "abstract right" (sometimes also called "right") and morality to isolate them as treatises on free standing realities. As we will see, the elements that these chapters bring to the fore will undergo several transformations by being integrated into the ethical institutions of the family, civil society, and the state.

Hegel's method demands that we proceed from the abstract concept (or the "in itself") of right to its concrete and total actuality. In the order of execution, the "being" (*Sein*, or "immediate" reality) and appearance (*Erscheinung*) of right come first, but the further development shows that these are grounded in an essence that is essential to its idea. The first chapter of the *Grundlinien*, which clarifies a narrow, abstract, and private sense of "right," must therefore not be read as an adequate presentation of the most profound and comprehensive principle of right. Instead, it offers Hegel's version of the abstract — and thus only half-true — principles of modern individualism and contract theory. In the following chapters, Hegel will show that these principles remain superficial if they are not comprehended as integral moments of a more concrete theory which focuses on communities. The pattern and claims of "abstract right," as he calls this first realization of "right," must be *aufgehoben*, i.e., retained, subordinated, integrated, more radically grounded, and transformed, by seeing that they are only independent moments of a higher and more complete form of "right" (§ 30R, cf. 75R). The subordination of abstract right to a higher and more encompassing "right" does not abolish the partial or relative truth of its principles, but these cannot manifest

their full truth unless we understand how they fit into the encompassing theory.²

Immediate Right (§§ 34-39)

"Abstract right" is *personality* (§ 35). It emerges as soon as a free will posits or wills itself as free. A *person* is a free individual who knows and wills (i.e., confirms and determines) his or her own freedom as such (§ 35).³ Personality is the foundation (*Grundlage*) of legal competence and the reason why persons must be respected (§ 36). It is the sovereignty of the will as practical self-affirmation and self-determination. As such, it has a normative side. Personality is the will's normativity considered in its formal or abstract essence, apart from any particular content.

More precisely, the immediate realization of right has the conceptual structure of a *singular* will that is related to itself by knowing and willing the *universality* of its own freedom (§ 34-35, cf. § 5). As a human will, it is *also* determined by the *particularities* of its natural inclinations, its body, its *Willkür*, and the external, natural, social, and cultural world in which it participates; however, these do not constitute its personality as such. The concept of a person abstracts from all specific and individual properties and differences among human beings, except their freedom and all that this involves.

To be a person implies the capacity to distance oneself from *all* particular determinations, including the natural and customary

² Peter G. Stillman's articles "Property, Contract, and Ethical Life in Hegel's *Philosophy of Right*" (in Drusilla Cornell, Michael Rosenfeld, and David Gray Carlson [eds.], *Hegel and Legal Theory* [New York: Routledge, 1991], pp. 205-222, and "Person, Property, and Civil Society in the *Philosophy of Right*" (in Donald Philip Verene [ed.], *Hegel's Social and Political Thought: The Philosophy of Objective Spirit* [Atlantic Highlands: Humanities Press, 1980] pp. 103-118) offer an excellent presentation of Hegel's conception of property and contract right and its relation to the ethical totality. See also his article, "Hegel's Critique of Liberal Theories of Rights," in *Assessments*, vol. 4, pp. 312-324.

³ On Hegel's concept of person and personality, see the excellent studies of Gabriel Amengual, "El concepto de persona en la filosofía del derecho de Hegel," in *Escritos de filosofía* (Buenos Aires, 13 [1994]), pp. 43-73; and Ludwig Siep's "Personsbegriff und Praktische Philosophie bei Locke, Kant und Hegel," in *Siep, Prakt. Phil.*, pp. 81-115, and "Person and Law in Kant and Hegel," in R. Schürmann, *The Public Realm* (Albany: State University of New York Press, 1989), pp. 82-104.

determinations of one's own body and mind — if necessary, by suffering deprivation and death. This capacity makes the person free in *and for itself*, albeit in a still negative and abstract way. However, this negative moment, in which a person can die for his freedom by withdrawing from all particular contents, cannot be separated from the positive appropriation in which — by negating the first negation — that same person makes certain particularities, including his corporeal and mental capacities, his own. Self-possession (being a person, both essentially (*an sich*) and actually (*für sich*) presupposes the negative moment of “universal” and total distance from oneself. Human beings who are unable to take this distance remain bound by particular attachments; they are not truly free, not persons “for themselves.” We will see that this thesis has important consequences for the personality and the individual rights of people who have not reached the stage of self-determined selfhood.⁴

⁴ Hegel's important distinction between a person *an sich* and a person *für sich* can be formulated in various ways using parallel distinctions of his logic, such as essence (*Wesen*) and *Existenz* (or manifestation, *Erscheinung*), *Möglichkeit* (possibility or potentiality) and *Wirklichkeit*, *Begriff* and *Idee*. Every human being is a person according to its human nature (or essence, concept, potentiality), but in order to become a “real” (actual, empirically existent, and manifest) person, one must appropriate oneself. See below. Abstract right is not synonymous with “natural right,” contrary to what Seyla Benhabib claims in “Obligation, Contract and Exchange: On the Significance of Hegel's Abstract Right,” in *Pelczynski, State*, p. 160: “‘Abstract right’ is of course Hegel's term for the traditional concept of ‘natural right.’” Cf. GrI 57R: “The standpoint of free will, with which right and the science of right begins, is already beyond the untrue standpoint, in which a man is in the way of a natural being [. . .]. This former, untrue appearance regards the spirit insofar as it is only at the standpoint of its consciousness.” Cf. also GrI 200R: Because civil society does not abolish the inequality of natural skills and resources, it contains a “*residue* of the state of nature” (*den Rest des Naturzustandes*, my emphasis). If “natural right” is Benhabib's translation of *Naturrecht*, most often translated as “natural law,” it is obvious that Hegel's entire book retrieves modern natural law theory, while his theory of abstract right is only one element of it. It is difficult to understand how Benhabib can reconcile the above claim with her statement that Hegel “does not view the inalienable right of personality to be something either naturally given or dictated by the mere *a priori* of human rationality” (p. 168). As the deduction of right from free will and of free will from reason and spirit shows, personality follows “naturally” or conceptually from “the nature” (i.e., essence) of human rationality. However, Benhabib does not accept this deduction (neglecting the fact that GrI 3-30 repeats the same deduction), and she opposes the historical genesis of modern right, which she seems to find in the *Phenomenology's* struggle for recognition, to Hegel's deduction in the *Encyclopedia*. Even if we were to grant that the phenomenological struggle for mutual

Self-consciousness does not by itself determine whether or not one is a person because consciousness and self-consciousness as such are not independent with regard to natural particularities. One *becomes* a person by "*thinking*," i.e., by knowing and willing oneself as dominating and determining the empirically given reality, including one's own natural and cultural determinations, thereby demonstrating one's independence from it (§ 35R, cf. § 21R). Animals do not have rights⁵ and children are not yet persons in the full sense of the word, because they are led by natural impulses; as long as they have not yet reached the level of thought and self-willed action, they lack real personality. Even entire tribes or peoples can lack the self-conscious freedom that is necessary for having personality. Being human, their members are free *in themselves* (i.e., according to their abstract, but not yet actualized concept); but insofar as they have not yet discovered and freely affirmed their autonomy, they are like children, unfree *for themselves* (*für sich*); consequently they do not have the basic rights that belong to persons (§§ 47-48 and 57).

In contrast with its (moments of) universality and singularity, right's (moment of) *particularity* is realized in the form of immediately given possibilities of self-determination. As self-determination, the singular will of a person wills itself and is to that extent distinct from particular possibilities of external determination (§ 37). The subject *can* and will act (§ 39) by choosing among these possibilities, but on the most immediate level of right's actualization none of the particular determinations can be deduced as *necessary* concretizations of personality. Again, we observe a gap between the form (the concept of right) and the content (its realization). No *particular* behavior or institution can be shown to be necessary at this stage of the development. The command or law that lies within human personality cannot impose anything positive except the abstractly universal order: "Respect all persons," or

recognition indeed represents a *historical* genesis of right, it would be unclear why this would exclude the *conceptual* genesis of right as presented in all the versions of Hegel's *Encyclopedia* and *Rechtsphilosophie*. An appeal to history does not suffice to establish that the justification of the norm involved in the right of personality "cannot derive from transcendental values of human nature or rationality" (p. 168).

⁵ Ilt 4, p. 195: "Animals do not have a right to their life, because they do not will it."

"Respect all human beings as persons."⁶ With regard to concrete rights or duties, being a person entails only *possible* purposes. Instead of giving positive orders, the basic law of abstract right *permits* all sorts of action — under the sole condition that they do not conflict with the general respect due to persons. This condition is at the same time responsible for the negative aspect of this dimension of "right": instead of imposing anything positive with regard to particular actions, it *prohibits* all actions that conflict with any person's freedom and basic claim to respect (§§ 36-38 and 113R).

"Respect" for the rights of persons has a rather negative character: it does not prescribe any particular concern or action for the sake of others' or one's own development or well-being. It is not the source of social rights, for example, unless we can prove, in a further stage of the investigation, that the prohibition to annul or diminish someone's freedom and personality implies positive duties. The restriction of abstract right to its prohibiting aspect has consequences for the relations between (abstract) right, morality, social welfare, and philanthropy, but the framework of Hegel's first chapter does not yet permit a discussion of these relations.

Since I myself am a person, I must also respect my own personality. I must, therefore, will and realize what I, as person, always already am. My behavior must manifest my personality. I must be *for myself* what I am *in myself*: "*Be a person.*" The ground rule of abstract right is not primarily other-directed, but universal: "*Be a person and respect others [and yourself] as persons.*"⁷ The emergence of "others" at this point in the text is in anticipation of a further development. Until now, Hegel has only deduced the (abstract and) universal concepts of right and person in general along with their various possibilities. Intersubjective or social relations *between* persons have not yet emerged, though it is difficult (but perhaps not entirely impossible) to separate the concept of respect from that of interpersonality.

⁶ Hom 224 (§ 19): "Respektiere die Menschen als Personen."

⁷ GrI 36. Cf. Wa 16 (§ 13): "Respektieret *den Menschen*, dich selbst und die anderen, *als Person*."

Sollen (§ 36)

One of the questions that may arise from the preceding summary is this: How is it possible that the analysis of freedom suddenly turns into the formulation of a normative statement? How does the *ought* in "Be!" and "Respect!" and "prohibitions" (§§ 36, 38) arise from the "is" that has been unfolded? In § 19 Hegel already mentioned a certain claim (*Forderung*), namely the demand that the natural inclinations and passions be purified; but instead of being deduced, that claim was there simply taken for granted. In Hegel's view, the good — and the *Sollen* that follows from it — accompanies the (onto)logical self-unfolding of the idea.⁸ He rejects the separation of "is" and "ought," because both are essential moments of all actuality, just as he rejects the separation of theory and praxis within the unifying notions of reason, spirit, and freedom. A fundamental form of normativity emerges when Hegel, in his psychology, analyzes the practical moment of reason; and all the parts of his philosophy of right show how the general concept of *Sollen* is an essential element of the various levels that are successively discovered, although its character changes with each modification of right.⁹ Without here reviewing all the normative passages that precede the treatment of the objective spirit in the *Encyclopedia*, I want to point out that the "ought to be" (*sei*) of freedom's objective actualization in § 27 is said to follow from the free spirit's "absolute drive."¹⁰ The demands of the spirit, *vis-à-vis* the individual's (self-)consciousness, are aspects of the spirit's primordial and all-embracing movement toward its full accomplishment. For the (self-)consciousness of singular subjects,

⁸ Hom 219 (§ 13). See below.

⁹ See *Foundations* and *Hegels prakt. Phil.*, pp. 46-47, 71-73, and 99-106. The fundamental and all-pervading character of *Sollen* is justified in the first part of Hegel's *Logic* as following from the boundary (*Schranke*) that is inherent in all *Dasein*. Cf. GW 11, pp. 73-78. It is thus false that Hegel abhors all *Sollen*; on the contrary, he affirms its universal character. His polemics are directed merely against its absolutization. As a form of negativity, *Sollen* cannot be the last word, though it can be and is the second and intermediate.

¹⁰ "*Der absolute Trieb des freien Geistes*" is the impulse or desire that drives the spirit to determine, differentiate, concretize, and actualize and return to itself. As the source of all movement it encompasses the entire universe. However, rather than justifying this basic postulate of his entire philosophy, more often than not Hegel simply presupposes it.

this movement appears as an imperative that singular persons should, but do not necessarily, follow; the history of humanity as a whole, however, shows that the spirit is sufficiently strong, wise, and good to indeed achieve what it wills. Homeyer's notes of the 1818-19 course quote Hegel as saying the following:

The will in and for itself is the idea, and in itself [it is] the unity of the subjective and [the] objective, against which the merely subjective determination of the will is a contradiction. Against this form, that unity is the *Sollen* [which demands] that such subjective determination lose its unilaterality and become objective. In this sense it is an *end* (*Zweck*) of the will and the will [is] the drive and activity to realize itself. The absolute drive and the *Bestimmung* (determination and destination) of the [singular, subjective] will is that the universal will [of spirit itself] occur or that freedom be actualized (Hom 219, § 13).

In the explanation that follows this section, Hegel opposes the spirit's will and the subject-object unity toward which it is directed as foundation (*Grundlage*) and standard (*Maßstab*), to the boundary (*Schranke*) it imposes on itself by individuating itself in singular wills. The total will "is what it ought to be; the subjective limitation [is] what ought not to be [seen or willed as the absolute]."

Awareness of this contradiction is the root of the *drive* that strives to overcome this limit. A drive is always grounded in some pain, in a lack (Hom 219, § 13R).

The normative character of right emerges from the suffering caused by the fundamental conflict between the spirit's teleological movement and the subjectivity of limited wills. *Sollen* is here the inevitable mediation between infinity and finitude in the dimension of willing.

The framework within which Hegel develops the idea of right is expressed in an even clearer way in Wannenmann's notes of 1817-18:

The pure free will is the divinity; the singular free will is the will of a human being [. . .]. Free will has being, and this being is determined as the being of singulars. Because free will is absolute negativity, absolute being-for-itself (*Fürsichsein*), we must begin with the being of the singular free will. The absolute spirit shines into itself; it is a distinction that in itself is not a distinction. The absolute essence (*Wesen*) is the intuiting and distinguishing of itself. The concept of the absolute free will is the *finite* free being.

We begin with the singular free being and the progress lies in its freeing itself from this finitude (Wa 15, § 11R).

Normativity is thus born from the absolute's own delayed coincidence with itself, a delay that is experienced as finitude, lack, and suffering in the consciousness of singular wills.

The Foundation of Abstract Right (§ 36)

Hegel's formulation of the basic imperative displays a strange duality: "Be a person and respect others as persons" (§36). Homeyer has a simpler formula: "Respect humans as persons" (Hom 224, § 19). Wannenman's text, however, is closer to the *Grundlinien*, though it indicates the unity of its duality more clearly: "Respect man, yourself, and others *as person*" (Wa 16, § 13).

The Kantian tone of these formulas is obvious if "*respektieren*" may be heard as a synonym for "*achten*."¹¹ From Hegel's perspective, the actualization of freedom, including all its moments and stages, is a claim of the absolute will with regard to all finite wills. Wherever there is free will, it must be affirmed, confirmed, willed, promoted, reinforced, developed, completed, brought to fulfillment and perfection.¹² It should not be diminished, harmed, or destroyed. This demand contains the seed for all the *positive* actions and institutions that must be realized, but they cannot be deduced within the horizon of abstract right. Since every singular person is an, albeit finite, actualization of freedom, every person's freedom and personality must be willed as free self-determination; it should be respected by the person himself and by all others, because one would contradict what one is by denying the freedom of any person.¹³

¹¹ While Kant's categorical imperative focuses on the general humanness or "being human" (*die Menschheit*) of individuals, Hegel's theory of right emphasizes *personality* as the basis of human rights.

¹² Normativity (and an emphatic form of *Sollen*) is thus an essential moment of the essence and idea of all spiritual realities. In this sense, the claims of right are given "*a priori*" as (co-)constitutive of freedom and are not merely conventional as Kenneth Westphal suggests in "The Basic Context and Structure of Hegel's *Philosophy of Right*," in *Companion*, pp. 248-250.

¹³ Hegel's principle of (abstract) right is thus valid for all human beings, but (a) he shows no interest in its application to international private law, (b) he introduces a distinction between being a person *an sich* and being a person-*for-onself*, and (c) he declares that the effective claim and enjoyment of rights

Not only must I protect my own personality, I should also strive for its full concretization; but what this means cannot be unfolded until we reach higher levels of right. I must actualize the free willing being that I am without having chosen it. The first condition for such an actualization is the discovery of my freedom and the positive willing of this fact. On the basis of this self-appropriation, I can then claim my rights and find out how I can develop my essential autonomy. With regard to other persons, I ought to act in the same way: I must permit them to discover, know, will, and concretely actualize their freedom. If they have not yet discovered it, and consequently cannot be *actual* persons (because personality presupposes that we confirm and will our essential freedom), we must still respect what they essentially or *an sich* are and permit them to be for themselves (*für sich*) what they always already have been in themselves (*an sich*).

We will see below whether Hegel's thoughts on slavery are consistent with his formulation of the basic principle of right in GrI 36. At this stage, it suffices to state that right in its most abstract and immediate mode implies a form of self-knowledge and self-determination that surpasses the level of self-consciousness.

The Differentiation of Immediate Right (§ 40)

The concept of right must develop into its idea by actualizing itself. The first, most immediate level of this actualization is constituted by three moments that will be considered successively:

depends on the latter. See Chapter Twelve below on international law. Hegel's explicit affirmation of the equality of all human beings (§ 49R) is founded on the abstract concept of a person, devoid of all its concrete attributes and circumstances. As such, it implies no judgment about a just distribution of goods or any other particular way in which this fundamental equality must be realized in the empirical order of power, honor, property, jobs, and so on. As a favorite category of the *Verstand*, equality is only one principle of right and justice. To become fully true, it must be rethought in unity with other principles, which are responsible for differentiation and inequality. These principles will come to the fore in later chapters, especially those on civil society and the state. It is only in civil society that personality takes the form of a "concrete person" (§ 182) and — as a concrete person with natural needs — of a "man" (*Mensch*, §190R). See also GrI 209R and 286R. For an insightful study that takes the later concretizations into account, see Bernard Bourgeois, "Hegel et les droits de l'homme," in Guy Planty-Bonjour (ed.), *Droit et liberté selon Hegel* (Paris: Presses Universitaires de France, 1986), pp. 5-45.

property (§§ 41-70), *contract* (§§ 72-80), and *crime* (§§ 82-103). These configurations show how right becomes concrete (1) in the will of singular persons as *owners*; (2) in *exchanges* between persons, which realize some of its interpersonal aspects; and (3) in conflicts between owners, which reveal a distinction between the universal and normative aspect of personality and the particular persons, whose wills are not necessarily identical with that universality. Interpersonal relations are introduced in the second section of this chapter, but the beginning and end focus on the person's singular will, rather than on interpersonal exchange.

The logic that governs Hegel's *divisio* of abstract or personal right comprises several categorical sequences.¹⁴ The entire level of abstract right is immediate, insofar as the (*universal*) concept of "right" reveals itself on this level in the form of *singular* instances that realize only its most elementary aspect and cannot express its encompassing unity. Within this general framework, the most basic, but also most abstract or immediate, concretization of right is found in the singular will of a person as actually willing some empirical reality (ranging from land and tools to one's own body and talents) as the embodiment and expression of the person's will willing itself. The (deficient) identity of this willing singularity with the *universal* concept of will must *differentiate* itself in a multitude of *singular* persons, who then enter into relations with one another, as Hegel tries to prove in § 71. The proof is anticipated in § 40 by an appeal to the (onto)logical thesis that the concept of personality, as universal, is identical in all persons, and that this universal identity, according to the logic of the concept, must manifest itself by generating the existence of other persons. Since they cannot exist without being related to one another, the original identity generates a mutual commerce among persons.

The third stage of the development includes the first two moments insofar as confrontation among persons reveals that their *particular* wills do not necessarily concretize the concept of their personality (including the rights and claims inherent in it). Thus this stage is not a successful synthesis, but rather — as a return to

¹⁴ Mainly belonging to the logic of the concept as unity of universality, particularity (or difference), and singularity. Cf. GW 12, pp. 32-52; Enc A 112-114.

the first stage of the *singular* but *universal* person — a contradiction between the universal and the particular moments of a person's singular will.

The first chapter of the *Grundlinien* has a structure that will be repeated in other chapters and sections. Instead of developing a first, immediate unity through a mediating multiplication into a more complex union, which is the logical pattern of other Hegelian texts, the unfolding reveals here how the immediate realization of an initial concept contains a radical contradiction that cannot be resolved within the limits of the analyzed level. Similar structures are found in the chapter on morality and ethicality, and, within the latter, in the sections on the family, civil society, and "the state." All of the main sections of Hegel's treatise on objective spirit thus lead to blatant contradictions, whose resolution is delayed each time in the hope that the next section will be successful in conquering the fundamental contradictions revealed throughout the book. As we will see, however, the philosophy of "right" cannot justify a final resolution; for that, it refers beyond itself to the absolute "dimension" of spirit.

Property (§§ 41-70)

Appealing to the logic of the idea,¹⁵ according to which the concept necessarily realizes itself in a natural concretization, Hegel declares in § 41 that the concept of personality (i.e., the will of a human individual that shows and wills itself) must become an empirical reality. The singular will must actualize and establish itself in the external world. Self-determination is indeed to possess oneself and be master of oneself, but it remains an empty possibility if this self-possession cannot express itself in mastery over exterior realities — nature, matter, things, tools, and so forth — that provide the will with a concrete content and thus transform its potentialities into actualities. Self-possession begins with the possession of external things. Property, in the normal sense of owning goods, is the immediate, necessary, and natural, but inadequate, expression of the fundamental determination by which a person

¹⁵ As the unity of the concept and its reality (GW 12, p. 175). See GW 12, pp. 173-187 and 252-253; Enc A 161-163 and 191.

effectuates his selfhood. The more intimate one's possessions are, the more that person's freedom shines through his property. To knowingly and willingly own my own body, wishes, thoughts, decisions, rights, and claims makes me free "for myself" and for others. Without such self-possession a person is still free "*an sich*" but is not a master of himself.

Mastery over exterior things determines some portion of nature, but how can you, as a person, determine *yourself* by determining some other thing? This is possible only if you can determine something else *as* a determination of your own will, or the other way around, if you determine your personal will in such a way that it becomes one with (or determined as) something other, which thereby becomes a freely *willed* thing — not only a token of the person's willing, but its materialization. On the level of immediacy that is characteristic of abstract right, the identification of free will with a natural thing takes place when a person wills something material *as* the external realization and manifestation of his personality (i.e., of a will that wills itself). The willed thing, as owned by a person, has then itself become respectable; it is no longer a piece of nature, because it embodies a spiritual reality. But how can something material manifest and actualize personality, which is rational, volitive, and spiritual? Hegel answers: by receiving personality as its "soul" (§ 44). By being owned, a thing is transformed; animated or inspired by the person's freedom, it is the end, the (real, albeit inadequate, because immediate and natural) expression, and the concrete actuality of the spirit itself in the (again immediate and inadequate, but real) form of a singular will. By owning something, the person affirms his personality and respectability *in and as* the respectability of a material thing, which, as willed, has a spiritual core. The person's will is materialized in and as property (*Eigentum*).

However, a person's self-determination cannot be expressed in the conquest or possession of other *persons* because this would contradict their essential personality and right to respect. No one can own another person; a right to possess persons is therefore impossible (§ 40R). Only spiritless and will-less entities can be owned because their lack of freedom precludes all rights (§ 52R). Consciousness and self-consciousness do not themselves entail respect; right and respect presuppose free will. All dead and living

beings without will can be appropriated, but they thereby become respectable concretizations of the right of some human being. Once they have become the property of a person, they must be respected as a concrete presence of their owner's freedom.

Hegel's deduction of property does not appeal to natural needs, as most empiricist theories do.¹⁶ Right does not emerge from hunger or suffering, but *only* from free will. To understand this, it is necessary to emphasize that "free will" does not have the sense of arbitrary choice (*Willkür*), but instead names the self-determining essence that precedes any choice. Right does not follow from needs, wishes, or choices, because these are contingent and arbitrary, whereas rights are *necessary elements of being human*.¹⁷ This necessity — the rational, spiritual, and volitive core of right — is what distinguishes *property* (*Eigentum*) from *possession* (*Besitz*). The latter (a factual having) does not found or imply any rightful claim; the former does (§ 45).

Since natural things cannot claim anything for themselves, they can be appropriated and owned by any will — unless they have already become the property of some other person who, through former appropriation, gave them a new soul, thereby transforming them into something spiritual and respectable. As an act of singular persons, appropriation results in private property (§ 46). From the perspective of abstract right (or the right of persons), nothing forbids a transformation of nature in its entirety into the property of human owners, since neither things nor plants nor animals have rights. The natural universe is enhanced by such humanization. Hegel even presents property as a practical refutation of Kant's separation between the human spirit and the "thing-in-itself." For Hegel, appropriation proves the truth of idealism, insofar as it actualizes potentialities of nature that only spirit can actualize. By

¹⁶ Hegel resists all attempts to ground rights in natural facts. This is why some commentators, who misinterpret the natural law tradition as a theory of nature in the modern sense of the word (and not in the Aristotelian and Scholastic sense of *physis* and *natura*) think that Hegel rejects "natural law." Needs are fundamental to the socio-economic dynamism of the human community, but only right, as the normative expression of spiritual freedom, prevents neediness from being murderous and chaotic.

¹⁷ It is therefore impossible to interpret Hegel's theory of rights as based on a prior contract, convention, or historical recognition. Right, freedom, and spirit precede their empirical realization.

becoming property, a natural thing, for instance, a tree, becomes a concrete manifestation of the spirit (§ 44R).

With regard to private property, higher levels of right, such as social or political institutions, might have overriding claims on natural resources, however. The community takes precedence over the private property of singular persons who would prefer sole possession of the world (§ 46R). However, Hegel is no friend of communism, although he concedes that certain "elementary objects," such as air and water, "cannot be particularized into private property."¹⁸ The reason no singular person, for example, is allowed to take possession of all the water in the world does not lie in the physical impossibility of such an appropriation, but rather in the singularity of being a person (§ 52). Since free will singularizes itself in a multitude of singular persons, the singularity of many wills has to be realized and expressed objectively. Property, as objective reality of the will, is therefore properly singular and, as such, free from interference from other singular wills. "Property is thus essentially *free, full, or complete* property" (§ 62). One thing cannot be owned by two or more persons. Common property would be possible only if two or more singular wills could fuse into one personal will or if they are subordinate to one higher will, which would then be the real owner. On the level of interpersonal law, this is impossible, but is it not a reality in the family and the state? According to § 46R, private property can be subordinated to higher levels of right, for example, to corporate persons (*sogenannte moralische Personen*); however, "such exceptions [!] cannot be founded on chance, private choice, or private utility, but only on the rational organism of the state." Hegel's rejection of communism on the level of personal and private rights is motivated by his refusal to accept any suppression of the claim of persons to actualize their singularity. If common property is possible, it should not abolish but integrate the rights of that singularity. We will see whether this is possible in the family or the state.¹⁹

¹⁸ Grl 46R and 52R. In § 52 Hegel adds "*die Gattung*" (the genus; e.g., all wheat or the totality of rice in the world) to the "*elementarische Gegenstände*" that cannot be owned as private property of singular persons.

¹⁹ By way of anticipation, we can state that the family and the state best demonstrate that abstract right, as defined in Hegel's first chapter, must undergo modifications when it is considered as an integral element of higher forms of "right." The family, e.g., owns its possessions as common property, because, as a

Hegel's theory of personality and property can be clarified through a comparison with ancient views. In the community of goods as presented in Plato's *Republic*, Hegel sees an unjust repression of personality. The legal imposition of common property is a collectivistic misunderstanding of true freedom (§ 46R). Friends or associates may choose to hold their property in common — their singular wills may freely decide to put together what they own. But such a freely chosen commonality is not recommended because, as Epicurus remarked, institutional communism expresses a certain distrust incompatible with the moral generosity that should reign among friends (§ 46R). The analysis of right, as a single person's right with regard to nature, does not indicate any reason private property should be shunned (§ 46). It is a serious question whether certain limits should be imposed on it, but the principle of singularity cannot be sacrificed, even if it is *also* true that any community must express its will in communal property. In any case, in our unfolding of the idea of right we have not yet reached the dimension of social and communal life. The question of private versus collective property cannot, therefore, even arise in this first section. Its proper place is in the chapters on ethical communities, such as the family and the state. As we will see, Hegel's conception of the family stresses the common property of its members; as for the state, Hegel does not really address the question, though he accepts the necessity of taxation and some sort of welfare system for the poor.

Intermezzo

Hegel's conception of property expresses a characteristic view of the relation between nature, on the one hand, and spirit, reason, and will, on the other. If the source of right is the will insofar as it

community of love, it transcends and encompasses its members by making them one, thus constituting a higher, "moral" person (§§ 46R, 162, 163R, 170, 171, and 199). The state, too, is a union whose public property belongs to the community of all its citizens (§ 299R). Even the resources that the king possesses to fulfill his public functions are not his own, but common property. Merold Westphal in Chapter Two ("Hegel, Human Rights, and the Hungry") of *Hegel, Freedom, and Modernity* (Albany: State University of New York Press, 1992), pp. 19-36, clearly explains the provisional and elementary character of Hegel's statements on property in *Abstract* (or formal, immediate, "primitive") Right.

essentially wills and dominates itself, while nature, as material, is dependent, passive and determinable, the will can and must master nature and sovereignly determine it. Plants and trees do not deserve respect; neither do animals, even if they are gifted with consciousness. Only willing subjects aware of their personality can claim respect. Human freedom is thus interpreted as legitimate sovereignty over all will-less realities. These are "up for grabs," because their natural character refers to the human will as mastery and power. Since the will is the unique source and justification of its own determinations, everything else receives its meaning from it. Freedom as self-determination includes absolute mastery over all matter and natural life because it is the will's mastery over itself. As we have seen in Chapter Two, Hegel does not make the mistake of identifying the will as a faculty of choice. Following a long tradition, he maintains that all choices are preceded and ruled by the will's practical rationality; but this rationality is itself explained as the expression of a universal, supra- or pre-individual spirit whose will is so absolutely identical with its own content and form that Spinoza could call it a "cause of itself" (*causa sui*) (Enc C 153R). Thus, on the finite level of human power, property imitates the absolute sovereignty of a power that masters its own emergence.

In its practical unfolding, Hegel's conception of rationality manifests the affirmative, possessive, imposing and disposing, masterly, powerful, and self-willing character of the spirit. Reason is possessed and obsessed with itself. For this reason it deserves respect. If Hegel is right, children and "primitive" people should indeed learn how to affirm their sovereignty in claiming the right to be respected as self-positing centers of power and possession, for only self-possession and self-mastery can justify the claims of right.

Life, Body, Property (§§ 47-48)

The concept of a person, summarized in § 34 and unfolded in its universal (§ 38), particular (§§ 37-38), and singular (§ 39) moments, is the first, most elementary realization of "right." In it we recognize the three moments of free will analyzed in §§ 5-7. As immediate and abstract, the person's right does not entail a specific content, although it *must* particularize itself to be real. The

question of which and how many things a person should own cannot be answered by philosophy — at least not on the level of abstract right. Further on, we will see that the multiplicity of persons imposes limits on individual appropriations, but on the basis of the foregoing conceptual unfolding, the quality and quantity of property must be called “contingent”: “*what and how much I own*” must be left to the arbitrary choice of individuals (§ 49, cf. §§ 182 ff).

However, some realities seem unfit to be owned as property, for example, human bodies. Are there realities that resist appropriation or can everything in the world be owned, acquired, exchanged, given, or thrown away (§§ 47 ff.)?

For animals to be alive entails that they be corporeal. As a rational *animal*, I am alive (a *zōion*) by having a body. As long as we live, our *Körper* (body) is a *Leib* (living body), not a corpse (*Leiche*), and the *Leib* is the natural being-there (*Dasein*) of the human spirit. A human body is special: it is the real possibility of all further human features, as the philosophy of nature and the anthropology have shown. (Hegel here refers to Enc A 259 ff. and 318.) From the perspective of spirit, a perspective higher than that of animality and the human soul, the life of the body is the spirit's own *Dasein*, but this does not allow us to say, without reservation: “I am my body.” Obviously, my relation to my body is much less external and much more intimate than my relation to the things I possess — more intimate than any “property” in the *ordinary* sense of the word. On the other hand, as *immediate* presence of my spirit, the body is not the adequate expression of the spirit. Therefore, Hegel prefers to say: “I am alive *in* this organic body as general and undivided external being-there” (§ 47, my emphasis).

Hegel draws a distinction between “having a body,” in the sense of being unavoidably corporeal, and “having” or “possessing” or, more precisely, *owning* one's body as the expression of one's most intimate natural and external property. Because of the difference between the will and the body, a person can appropriate and own his body, just as he can also — negatively — mutilate or sacrifice it. The natural embodiment of all human beings does not constitute property in the sense of a right (*Eigentum*); to become property, the body must be transformed by personal appropriation into the expression of a self-conscious will.

The difference between having a body and being a body (or between being human and being an animal) is manifested most clearly by the fact that the phrase "I am spirit" is not identical with "I am corporeal," or — negatively — by the fact that we can radically distance ourselves from our corporeality, for example, by killing ourselves or by accepting death.

However, the distance between human rationality, including thought and free will, on the one hand, and its corporeal *Dasein*, on the other, does not exclude the possibility of a progressive spiritualization of the latter. Through education and training, a human body can become "a willing organ and [. . .] instrument" through which the spirit actualizes itself in the world (§ 48).

Such an actualization presupposes, however, that the spirit, as will, develops its incarnation by "taking possession of" the body (§ 48). Hegel recognizes an analogy between this and the humanization of natural things by appropriation. In order to have my body, not only as the unavoidable *Dasein* of my freedom, but also as an obedient organ of my spirit, I must cultivate and civilize my animality. Only then will my body express the spiritual talents that remain hidden prior to my "formation" (*Bildung*).²⁰ "It is only through the cultivation of his own body and spirit [. . .] that a human being takes possession of himself and becomes a property of himself against others" (§ 57; cf. § 35R). Hegel thus contrasts under- or undeveloped people, such as children or "primitives," with educated and civilized people who are in possession of their right.

The necessity of *Bildung* does not obviate the fact that nobody has the right to possess or harm another's body or to treat an uncivilized person as a mere animal (§ 48). Because free intelligence and will are concretized through it, the body not only refers to them but also makes them empirically real. Bodily presence is the only way in which will and personality can "exist" and make

²⁰ §§ 48, 52R, and 57 & R. *Bildung* (from *bilden*, to shape, to make an image or statue or figure, to form, to educate, to civilize) encompasses education, erudition, knowledge, formation, refinement, culture, civilized taste and manners, and acquaintance with art, literature, science, and philosophy. The word cannot be translated by any single English word; I will therefore leave *Bildung* untranslated or put it in parentheses following one of its partial translations. *Ausbildung* (§ 57) emphasizes personal formation and development.

themselves known. To be real *is* to “be there.”²¹ Anticipating the intersubjective aspect of right, which will not be deduced until § 71, Hegel declares that to be truly free *is* to be a person who deserves respect from others: “*For others* I am essentially free in my body as I have it immediately” (§ 48). Correspondingly, “violence done toward my body is violence against me” (§ 48R) and *I*, not only my body, experience the offense when my body is abused. Such a personal attack is more violent than a theft, because I am more intimately united with my body than with any other property.

A consequence of these considerations is that no one can sell or donate his own body or talents. In order to do that, one must own what one gives away (otherwise it would be fraud or another kind of *Unrecht*), but to own one’s body and mind presupposes personal appropriation. This, however, transforms an external reality (one’s body, labor, skills, and we can add convictions, religion, etc.) into a constitutive element of the person’s concrete willing and acting. Appropriation is a form of interiorization through which the appropriated externality becomes part of the existence (*Existenz*) and appearance (*Erscheinung*) of the owner’s willing essence (*Wesen*, §§ 57R and 65). “The act by which I appropriate my personality and substantial essence and [thus] make myself legally competent [. . .], is an *Aufheben* of the exteriority [. . .] and a returning of myself to myself, by which I make myself existing as idea” (§ 66R).

The distinction, made in § 48, between my own perspective and that of others, can be clarified in the following way. I myself *can* withdraw from my body by accepting or even desiring death; but nobody has the *right* to force me to accept such a withdrawal from my body. In order to *claim* respect, I must *be aware* of my right not to be harmed; however, the right itself does not depend on any choice or decision, but solely on my being a person. In the absence of my awareness, the claim, unheard by me and others, does not lose its validity. What is missing is only the *discovery* that being human entails personality and therewith personal rights. Freedom itself, not our corporeality as such, guarantees that we

²¹ Hegel refers here (§ 48) to the logic of the idea (see note 15 above), *Dasein* (GW 11, pp. 59-62), and *Existenz* (GW 11, pp. 319-326). Cf. Enc A 42-44; 74-75; and 161-163.

deserve respect, whether or not other individuals, peoples, or cultures know and urge it.

Hegel does not contradict himself when, in § 35R, he speaks about “individuals and peoples who do not yet have personality,” or in § 261R, where he maintains that slaves have neither rights nor duties. The latter statement is found in the introduction to Hegel’s theory of the State: “The reason why slaves have no obligations is that they have no rights” (§ 261R). This follows from the fundamental identity of rights and duties, proclaimed in § 155 (see below chapter Seven). Awareness of duties presupposes freedom as well as awareness of having rights. If you have not yet discovered that you are free, and consequently cannot claim rights, you are not operating in the realm of objective spirit. You are then still living a childlike existence. There are indeed persons and peoples that have not yet reached the stage of human freedom in *and for itself* (§ 35R).

The Genesis of Property (§§ 49-52)

How does something become someone’s property? Hegel first formulates and then responds to this question from the perspective of a single person confronted with nature, in abstraction from all interpersonal relations.

Personality entails a universal right of appropriating whatever is available (§ 52R). As long as we do not introduce more than one person onto the scene, there is only one instance of freedom and a vast realm of nature, which does not belong to itself. We anticipate the existence of the intersubjective dimension if, as a first condition, we state that a person can only own what, as “masterless” (*herrenlos*), is not yet owned by another person (§§ 50-51). The traditional “right of the first occupant” (*ius primi occupantis*)²²

²² In retrieving the traditional doctrine of private law, Hegel uses many of the standard expressions of the handbooks. While in his own text, he usually translates these expressions into German, Wannenmann’s course notes give a series of Latin terms, such as *occupatio*, *ius primi occupantis* (Wa 20, GrI 50), *accessio* (Wa 22), *occupatio bellica* (Wa 23), *res nullius* (Wa 20), *ius in rem*, *specificatio* (Wa 19), *detentio* (Wa 24), *res abjecta* (Wa 18), *dominium directum* and *dominium utile* (Wa 28), *accessorium sequitur principale* (Wa 28-29), *res sacra* (Wa 31), etc.

Hegel’s retrieval also often follows and refers to Kant’s retrieval of the

tradition, in which Roman law played a very important role. To what extent Hegel understood the current scholarship on law and to what extent he appreciated the heritage of Roman Law, despite his criticisms (e.g., in GrI 3R), has been debated by a number of scholars: Marcel Villey, who is very severe toward Hegel; Joachim Ritter, who emphasizes that Hegel does indeed respect that heritage but transposes it to the conditions of a different, modern world; and Jean-Louis Gardies, whose judgment is mixed. Villey ("Das Römische Recht in Hegels Rechtsphilosophie," in Riedel, *Materialien*, pp. 131-151) recognizes that Hegel studied the legal works of Thibaut (see GrI 79), Hufeland, Klein (GrI 104), Heineccius (GrI 40, 59, 62), Hugo (GrI 3), and Savigny (GrI 211, 212), and that he also received information from Wolff, Kant, Montesquieu, and Gibbon (pp. 132-137), but he thinks that Hegel read neither the *Corpus Iuris Civilis* nor the *Digesta* or the *Institutions* of Gaius, and he has a low opinion of Hegel's understanding of law. According to Ritter ("Person und Eigentum: Zu Hegels 'Grundlinien der Philosophie des Rechts,'" in Riedel, *Materialien*, pp. 152-175), Hegel's polemics in GrI 3R against "the historical school" of Hugo and Savigny and their use of Roman Law are not directed against Roman Law itself, but rather against the antiphilosophical tendency of the historical school. Gardies ("De quelques malentendus entre Hegel et les juristes," in E. Weil et al., *Hegel et la philosophie du droit* [Paris: Presses Universitaires de France, 1979], pp. 131-156) focuses on some specific misunderstandings in GrI 40R, 76, 79, and 80; he shows that Hegel has misinterpreted the basic distinction between *ius personarum* (*Personenrecht*) and *ius rerum* (*Sachenrecht*) and that his criticism of the lawyers is here misplaced (Gardies, pp. 149-155). With respect to contract theory (cf. GrI 76-79), Hegel imposes his own meaning on the distinction between "real" and "formal" contracts, which leads to further misunderstandings (pp. 144-149).

Wolfgang Schild, who has devoted the greatest amount of attention to Hegel's thought in relation to jurisprudence, explains in "Rechtswissenschaft oder Jurisprudenz" (in *Archiv für Rechts- und Sozialphilosophie*, Beiheft 44, 1991, pp. 327-336) why Hegel's *Rechtsphilosophie* scares away most specialists of law, and he proposes a restructuring and reformulation of the valuable core of the *Grundlinien*. See also his other articles, "Der strafrecht dogmatische Begriff der Zurechnung in der Rechtsphilosophie Hegels," in *Zeitschrift für philosophische Forschung* 35 (1981): 445-476; "Das Gericht in Hegels Rechtsphilosophie," in *Überlieferung und Aufgabe: Festschrift für Erich Heintel II* (Wien: Oldenbourg, 1982), pp. 267-294; "Begründungen des Eigentums in der politischen Philosophie des Bürgertums: Locke, Kant, Hegel," in J. Schwartländer and D. Willoweit (eds.), *Das Recht des Menschen auf Eigentum* (Kehl am Rhein: Engel, 1983), pp. 33-60; "Ende und Zukunft des Strafrechts," in *Archiv für Rechts- und Sozialphilosophie* 70 (1984): 71-112; "Sittlichkeit als politische Gesinnung des Staatszutrauens," in *Hegel-Jahrbuch* 1988 (1990): 158-169; and "Hegels Lehre vom Notrecht," in Vittorio Hösle (ed.), *Die Rechtsphilosophie des Deutschen Idealismus* (Hamburg: Meiner, 1989), pp. 146-163.

For a good overview of Hegel's retrieval of jurisprudence in the different phases of his development and the "ambiguity" of his attitude toward the positive law tradition, see Norberto Bobbio, "Hegel e il diritto," in *Incidenza*, pp. 215-249. On Hegel's relationship to the natural law school, see also Bobbio's "Diritto privato e diritto pubblico in Hegel," in *Rivista di Filosofia* 68 (1977): 3-29, and "Hegel und die Naturrechtslehre," in *Materialien* 2, pp. 109-127. Hegel's interpretation of the Roman world is represented in GrI §§ 2, 3, 4, 33, 46, 40, 57, 59, 61, 62, 67, 72-104, 151, 175, 180, 211-212, and 216-217. See also the studies

follows directly from the definition of property: anything that is owned already has an occupant, whereas anything not owned is only natural and thus without will or right.

A second condition is that the person must *will* the available thing as his or her possession (§ 51). The will is the human capacity of owning anything that can be owned by a singular will; no singular piece of nature can resist this will (§ 51).

The third condition follows from the fact that property, as *Dasein* of personality, cannot be actual unless it is acquired by being taken into possession empirically. This demands whatever strength or skill is required for grasping the thing the person wishes to own. By taking possession, a person also makes it known to others, if there are others, who the owner is; but this intersubjective feature of property is a consequence rather than a constitutive moment or condition of property (§§ 49R and 51).

Is property confined to natural things or can we also own products of the spirit, such as books, works of art, labor, talents, skills, and so forth (§ 43R)? Many difficult questions about authors' rights emerge here, some of which Hegel touches upon, but the principle of all his answers is simple: expressions of the spirit can be owned and treated as property insofar as the spirit itself is able, through externalization, to produce them as empirical things (§ 43R).

Personality and Interpersonality (§§ 49R and 51)

In §§ 49R and 51, Hegel emphasizes that his introductory treatment of property (§§ 34-52) does not presuppose any intersubjective structure. This is indicated both in the Remark on § 49 with the phrase "here, . . . where such a distinction [between *several* persons] is not yet in place" and in § 51 where Hegel speaks of "the *anticipated* relation to others" (my emphasis). The importance of this is obvious: the basic form of abstract right can and must be defined and justified as a relation between the will of one singular person and the impersonal realm of natural things. Not

of Giuliano Marini, cited in Chapter Three, note 10 and Giovanni Bonacina's *Storia universale e filosofia del diritto: Commento a Hegel* (Milano: Guerini, 1989), and Hegel: *il mondo Romano et la storiografia. Rapporti agrari, diritto, Cristianesimo e tardo antico* (Firenze: La Nuova Italia, 1991).

until § 71, when a second level of abstract right is introduced, does Hegel deduce an interpersonal relationship from the concept of private property.²³ The only form of human plurality that can be found in the concept of property is the concept of "universal self-consciousness," which emerged in the transition of consciousness to reason and spirit (Enc A 358-359). As we have seen, this self-consciousness is the awareness that self-consciousness is the universal identity of subject and object, which makes all humans equal and distinguishes them, as *rational*, from other animals. Human rationality, not yet rational or irrational *interaction*, was the result of the phenomenological dialectic. Rational interaction is not possible prior to the unfolding of spirit in language and contract.²⁴

In the course of his explication of property (Grl 49R), Hegel shows impatience with those authors who hammer on human equality. The intellect (*Verstand*) maintains a non-dialectical distinction between universal equality and the many particular varieties in human existence, without asking how these varieties emerge from that universality. Thus, reflection is fixed on an abstract concept of personality, i.e., on personality as present in each and every person in history. That there are many individual and specific differences between persons does not then play any role in the determination of their equality. The latter is simply a formula for the fact that personality exists in many instances, places, and times. How it differentiates itself is not even recognized as a question.

Under no condition can the abstract equality of the *Verstand* be used to justify the claim that everyone should own an equal

²³ Therefore all attempts to found right on forms of mutual "recognition" or intersubjectivity are unHegelian. Though I admire Peter G. Stillman's articles (see note 2), the following statement does not seem compatible with Hegel's clearly stated position on the priority of property over social relationships: "But Hegel insists that private property inheres in persons *only because* of their relations to other persons in a nexus of mutual recognition of personality; property is social from the start" (p. 260 of "Property, Contract and Ethical Life," my emphasis). That property is social from the start is true in a historical sense, but it follows from the right of a singular person and not the other way around.

²⁴ Language is not introduced until Enc A 379R-380, at a high stage of psychology, and its communicative character is not particularly emphasized. The practical communication through contractual relations is even delayed until A 408 (cf. Grl 71-72), as part of the objective spirit. In the psychology of practical spirit, intersubjectivity does not play a role at all.

amount of particular goods. Personality is the right to own available things; it must actualize itself by having at least some property, but it does not entail any specific demand. Its concept (§§ 34-39) is too abstract to contain a concrete specification of contents to which various kinds of persons would be entitled (§§ 37-38). That each person should not only have the *right* to own but should *actually* own property follows from the principle that the spirit must actualize (or be *an und für sich*) its essential possibilities (the spirit *an sich*); however, the measure and the proportions according to which the individual instances of the spirit should be owners cannot be read off from that principle.²⁵

Further developments are necessary to deduce any specification of the basic right that is contained in being a person; but since personality, as the most immediate reality of right, consists in singular wills, the concrete modes of ownership are highly contingent. Hegel is not only an anti-communist (see above with regard to § 46R), he is also a anti-egalitarian. Not only is concrete equality in property impossible, because too many contingent circumstances, skills, and characters are involved, but the question of whether it is possible or desirable does not even belong in a treatise on basic rights. That all human beings should have enough to survive is not a question of right, according to Hegel; it is rather a moral wish with regard to the concrete distribution of goods among the members of a civil society (§ 49R).²⁶ The formal definition of property, provided above, does not allow us to specify *what*, in particular, people should own. Specification demands a consideration of different needs, but even if we unfold the "system of needs," as Hegel will do in his treatise on civil society, natural factors, singular wills, and variable circumstances are involved, which imply a great deal of contingency. *That* people have the

²⁵ Cf. Ilt 3, p. 215: "That I have property is the being-there of my personality, but from the perspective of right how much this property encompasses is contingent." Because personality as such is an abstract principle, Hegel can write: "The determination of how much I in particular own, falls outside the equality in right. It is therefore false to say that justice demands that everybody's property should be equal. Justice demands only that everybody should be able to have property. The nature of particularity is such that where inequality has its right, equality would be wrong" (Ilt 3, pp. 217-218).

²⁶ For a *moral* answer to this question, see Chapter Five, pp.342-358 on the right to well-being.

right to own and should own at least something, follows from the necessity of realizing their freedom concretely; *what* each person should own cannot be deduced by philosophy, although certain conditions and limitations can be stipulated (§ 49&R).

Rethinking Private Law (§§ 53 ff.)

On the basis of the general principles set down with regard to personality and property, Hegel attempts to rethink the key notions of private law as contained in the Prussian General Legal Code (*das Allgemeine Landrecht*) of 1794 and the legal literature of his time, both of which were heavily influenced by Roman law.²⁷ Leaving most details to positive law, he restricts himself to general rules for the solution of such hotly debated questions as the essence of property, the distinctions between various forms of appropriation, the relations between property itself and qualitatively or quantitatively different forms of rightful use, the difference between specific forms of utility and general value, the possibility of prescription, the justification of copyright and patents, etcetera. Partly emulating and partly simplifying traditional or Kantian classifications, Hegel tries to justify his divisions through logical distinctions, for example, in § 53, where he divides property into (1) *appropriation*, (2) *use*, and (3) *alienation*, according to the logic of the positive, the negative, and the infinite judgment.

A full commentary on the propositional structure of appropriation and other phenomena of right would demand a long excursus of Hegel's logic of the judgment (*Logic*, GW 9, pp. 53-89; Enc A 115-128). In that part of his logic, Hegel reinterprets the traditional division of the judgments into four groups according to the quantity, quality, relation, and modality expressed in them, while each group again is divided into three kinds.²⁸ Because Hegel, in GrI 53, refers to the three kinds of qualitative judgment,

²⁷ In his notes on Hegel's *Elements* (pp. 404-416), Wood offers helpful suggestions for interpreting Hegel's references to Roman Law and the Prussian Code in GrI 53-81. He also shows several parallels and differences between the treatments of the same traditional questions by Kant, Fichte, and Hegel.

²⁸ Cf., for instance, Kant's *Logik*, §§ 17-30, Ak IX, pp. 101-109. See also Franco Chiareghin, "La dialettica del giudizio nell' *Encyclopedia* di Heidelberg: Hegel e Aristotele," in *Giornale di Metafisica* 17 (1995): 415-438.

we can limit ourselves to his treatment of it under the name "immediate judgment" or "*Urteil des Daseins*" (GW 12, pp. 59-70; Enc A 120-121). He sees this as the most elementary form of a proposition and suggests as its simplest form S-U (a singular subject is something universal, for example, "the rose is red"). More complicated structures are possible, for example, by replacing the singular subject with a particular kind of thing, but in any case, the proposition links (through the copula) two moments of a unity that it, at the same time, keeps separate. As "original partition" (Enc A 115R), the *Urteil(ung)* is thus a clearly deficient rendering of the concept that unites the three moments singularity, universality, and particularity (or the individual, the *genus*, and the *species*) through their mutually inclusive implications. The judgment displays only the polarity between two moments of the concept without showing how they can be one. Its affirmation of the copula states some sort of unity, but this remains hidden because the third conceptual moment (in the case of S-U, the particular P), which mediates between the other two, is lacking. Once the third moment is discovered to be the middle term that reveals why subject and predicate are one, the judgment is transformed into a syllogism, i.e., a cluster of three interlinked judgments that spells out the unity of the moments by linking them two by two: S-P, P-U, S-U.

The three kinds of judgment of *Dasein* are the positive, the negative, and the infinite judgments. Examples of the first two are: "this rose is red," and "this rose is not black." The infinite judgment can be correct only if it is also negative, for example, "the rose is not an elephant," "the spirit is not red," "the intellect is not a table." Such propositions might be correct, but they are absurd (*widersinnig*) because they link two elements that do not belong to the same universal sphere or genus; the question of their unity does not produce any truth.

Since Hegel's logic is an ontologic, the propositional structure is not only in the human mind; as the distinction between the conceptual moments, the "original partition" is an objective structure: "*all things are an Urteil*" (Enc A 116). However, there are twelve kinds of such duality; all of them are also implicit unities, while the syllogistic and ideal structures in which they are sublated represent a large variety of union and complexity.

In characterizing *appropriation*, *use*, and *alienation* as positive, negative, and (negative-) infinite judgments of *the will* with regard to a thing, Hegel gives his logic a practical twist. In appropriating something, a person's will subsumes a singular thing under the universal right of his respectable personality. The "judgmental" character of this relation between the owner and his property lies in the externality and arbitrariness of the link between the thing and the owner. This externality is also shown in the negative "judgment" that is realized by using the thing, and thus consuming it or wearing it out, and in the "infinite" judgment in which the thing is eliminated from the sphere of its owner's right.

Hegel emphasizes the low level of "right" that is realized in property. *That* and *why* a person must express his right in property is clear, but property is not an adequate expression of freedom; it neither shows anything specific about the personality of the owner, his social surroundings, his moral, political, or cultural character, nor does it show how much and what sort of things one should possess. The moral, ethical, and cultural dimensions of human life, and their impact on the modes and the distribution of property are ignored as long as we focus on the right of persons as such. In § 217, Hegel remarks that the modes of appropriation distinguished in §§ 54-58 rarely occur because there are hardly any *res nullius* in the existing society. However, even if the various structures of appropriation are sublated in the factual distribution of ownership, they remain essential for the comprehension of the latter. We will see that the concretization of ownership in the social "system of needs" shows a less "judgmental" and more conceptual or syllogistic realization of property and appropriation; but, even in civil society, property remains too external to fully realize a person's freedom and honor. To live and die for freedom itself, as expressed in a rational community and culture, requires property but the latter cannot be the focus.

Singularity or Mutuality?

At the risk of overkill, I would like to repeat that Hegel neither sees "the basis of personhood" in "the mutuality of recognition between free self-consciousnesses," nor holds "that what turns possession into property is the *recognition* of my possession by other

persons."²⁹ On the contrary, the recognition of another self-consciousness *as self-consciousness* (and not yet as a free willing *person*) entails neither respect nor rights because the universality and identity of self-consciousnesses discovered therein does not yet show its *rational* and *spiritual* character. Even if recognition meant that all persons recognize one another as *free willing* subjects or *persons*, this would not be the *basis* or ground for their rightful ownership. Hegel takes every opportunity to emphasize that property emerges from the singular will of a person when confronted with a not-yet-owned portion of nature.

Personality [. . .] constitutes the concept and [thus] the still abstract basis (*Grundlage*) of abstract [. . .] right (§ 36).

The deciding and *immediate* [!] singularity of the person [whose] will [. . .], as in itself infinite and universal, is [. . .] that which acts to sublate [the limitations that nature imposes upon it] and to give reality to itself, or, which is the same, to posit that *Dasein* as its own (§ 39).

The person must give to itself an external *sphere of its freedom* to be as idea (§ 41).

The person has the right to lay its will in every thing, which thereby is *mine* (§ 44).

To have something in my external power constitutes *possession* [. . .]. However, to be, as free will, objective to myself in my possessions, and [to be] only thus an actual will, constitutes the true and rightful (*rechtliche*) aspect thereof, [namely,] its determination as *property* (§ 45).

Because in property my will as personal, and thus as a singular person's will, becomes objective for myself, property acquires the character of *private property* (§ 46).

A human being [. . .] takes possession of himself and becomes his own property against others *essentially* by way of *his consciousness grasping itself as free* (§ 57).

The will of the owner, according to which a thing is his, is the first substantial basis (*die erste substantielle Grundlage*), the further determination of which, [namely,] use, is only the appearance and the particular mode that follows [or comes after] that universal basis (§ 59 R).

²⁹ As Wood writes in his notes on § 71 (*Elements*, n. 1, p. 413) and on § 45 (n. 1, p. 406).

The above quotations are taken from sections that precede Hegel's deduction of multiple persons in § 71 and his treatise on contract (§§ 72 ff); they are concerned with the concept of a person, i.e., with the *immediate* and *singular* actualization of right. Hegel himself notes twice that these sections do *not* take into account relations among a plurality of persons (§§ 49R and 51). However, because it is very difficult to explain property without reference to others who must respect it, Hegel occasionally refers to other persons, but all such references are anticipations.³⁰

It is unthinkable for Hegel that personality or property would be founded on the mutual recognition of already constituted persons, though the mutual recognition of consciousnesses, which resulted in their identity and rationality, is presupposed in all spiritual phenomena. The demand for respect is clearly founded on a prior right, and what could we respect other than personhood? As the discovery of another self-consciousness's identity with one's own, mutual recognition of self-consciousnesses does not yet constitute respect and it neither creates nor implies right. Although Hegel tends to reserve the word *Anerkennung* for the *phenomenological* form of human mutuality, we may *also* use it as a synonym for respect in the sense of the *practical recognition of other persons or states*, as Hegel indeed does.³¹ But even then it does not make sense to say that right is *founded* on "recognition" or is its result. Those who defend such a view often fail to clarify exactly *what* is recognized and *why* it should be recognized. The whole thrust of Hegel's argument lies in the thesis that *reason* and the *will* precede and found the claims of right. If phenomenological recognition were prior to the basic rights of personality and property, what then could motivate this recognition? Does it recognize a claim or a demand? How does that demand then differ from right? If recognition is not recognizing any basic right that is already there, it cannot have a normative force in Hegel's system. According to Hegel's analysis of the will, the entire system of right would then be a contingent product of natural drives and

³⁰ GrI 51: "das antizipierte Verhältnis zu anderen." See also § 36, where the basic principle of abstract right includes "the others as persons," although the difference between persons has not yet emerged.

³¹ See above Chapter Two, pp. 139-142.

contingent choices. To be human would amount to being an animal with the power of choice instead of being a rational animal.

If one defends the reverse of Hegel's position and makes mutual recognition (of *what* exactly?) the foundation of right, one cannot answer the question of why, i.e., due to which demand or right of that which is recognized, we *should* recognize it. In the struggle for recognition, as it is described in the phenomenology of self-consciousness, no demand or right is discovered. Self-consciousness as such is not yet free; it is still dominated by natural desires, or rather it is still too abstract to hear the voice of any law or duty. What *Anerkennung* discovers in the dimension of consciousness is that all human consciousnesses are identities of subject and object and consequently rational. That reason entails intelligence and free will has not yet become manifest. We have already seen which developments of the mind are still required in order to become aware of that truth.

We might be amazed to find that the entire treatise on intelligence and will does not refer to any intersubjective experience or concept — in Hegel's psychology mutual recognition of consciousnesses seems to be forgotten entirely — but nothing is more Hegelian than this concentration on the spirit as both universal and singular at the same time. Diversification, or as he likes to say, "particularization" (*Besonderung*), is always preceded by a stage of unity that determines itself by differentiating *itself* in a second stage of its actualization. Plurality, relation, interplay, exchange, and reciprocity are always secondary in his onto-logic and they are always followed by a higher form of universal and singular unity, which includes the realm of the particular as the internal element of its totality.

The chapter on abstract right is a case in point. Hegel's task was to show how a first, *immediate* (i.e., non-yet-mediated) concretization of (the concept of) right is possible. As immediate, this reality cannot yet show how the (abstractly universal) concept concretizes itself in a rational, well-diversified and well-ordered network of genera and species. The most immediate reality of right is an immediately given, and thus singular, being that embodies the concept: a singular person, whose will provides itself with an immediate and singular existence in some property. Because this is the *initial* situation of the philosophical reconstruction of the

legal, moral, social, political, and historical world, the task of the philosopher is to find out how this initial moment develops into a system of particular rights and duties. Hegel summarizes this development in different formulas: the *concept* of right must determine, fully particularize, and actualize itself; it must become for itself what it is in itself in order to become the *idea* of right. This order of demonstration concretizes, on a specific level, the overall rhythm of Hegel's (onto)logic, which spans from being to the concept, from the concept to the idea, from the idea — through the particularities of nature — to spirit, and from abstract or subjective spirit to absolute spirit. In his Remark on § 66, Hegel reminds the reader of the clearly metaphysical principle that rules his entire method. He even appeals to the authority of Spinoza, and he elsewhere says that no one can become a philosopher if he has not started as a Spinozist.³²

In § 66R, Hegel also declares himself to be in complete agreement with the *definition* with which Spinoza's *Ethica* begins: "By cause of itself (*causa sui*) I understand that whose essence entails existence; or that whose nature can only be conceived of as existing." What Spinoza presents as the "definition" of the infinite substance or God is Hegel's abstract concept of spirit; however, the latter's interpretation emphasizes that the spirit — being not only a substance, but a substantial *subject* — causes or produces its own natural existence in the world in order to return to itself through right, morality, politics, religion, and philosophy. The circular movement of this self-causation or self-determination repeats itself in all parts and dimensions of the universe. It is not interrupted by any *fundamental* plurality, for all forms of multiplicity are intermediate between the original cause and its "ideal" being-for-itself-what-it-is-in-itself.

Discussion

In his notes on § 45 and § 71 of the *Elements* (pp. 406 and 413), Alan Wood appeals to several passages to defend his thesis that Hegel grounds right in recognition.³³ Like many other comment-

³² Su 20, p. 165.

³³ These passages are from the *Phänomenologie des Geistes*, sections 178-200 (GW 9, pp. 109-116); Enc C 430-447; *Propaedeutic*, Su 4, p. 237; § 24 of Wannenmann's

ators, he appeals in the first place to the chapter on *Anerkennung* in the *Phenomenology of Spirit* of 1807, suggesting that this chapter justifies the assumptions from which Hegel, thirteen years later, developed his philosophy of right. Above, I have already argued against this rather popular, but mistaken interpretation.³⁴

The second text to which Wood refers is Enc C 430-437, a later version of Enc A 344-359, which I have analyzed above in Chapter Two.³⁵

Wood also appeals to a section of the *Propaedeutic*,³⁶ written between 1809 and 1816. However, this passage contradicts his interpretation. Although its first sentence can cause misunderstandings because of its incorrect formulation, it repeatedly and clearly confirms that recognition, as recognition of property, is *preceded* by the right of property and is *not* its ground:

Possession becomes *property* or a *right* (*rechtlich*) insofar as all [1] others recognize that the thing that I have made mine is mine, while I likewise recognize the others' possession as theirs. My possession is *recognized* [Hegel's emphasis] *because* [my emphasis] it is an act of free will, which is something absolute in itself and in which the universal [moment] lies [demanding] that I consider the others' willing likewise as something absolute.

Explanation

[...] Property (*Eigentum*) is the rightly (*rechtliche*)³⁷ side of *dominium*; possession (*Besitz*) is only the exterior side, [i.e.,] the mere fact that something is in my power. The rightly aspect (*das Rechtliche*) is the side of my absolute, free will, which has declared something its own (*das Seinige*). This will must be recognized by others [as will willing this possession as property] *because* [my emphasis] it is in and for itself and insofar as the conditions indicated above are obeyed. Property has therefore an internal and an external side. The latter is by itself a taking possession [of something], the former [is] the act of the will, which *must* [*muß*,

notes, which Wood quotes from Ilting's edition (*Mitschriften*), pp. 56-57 (=Wa 26-27); Enc C 490; and GrI 71R (*Elements*, pp. 406-413). However, none of these passages supports his thesis, as we will see.

³⁴ See pp.139ff.

³⁵ See pp.146-160.

³⁶ Su 4, p. 237 (§ 11).

³⁷ The word "*rechtlich*" is difficult to translate. "Legal," "juridical," "righteous," and "rightly" have different connotations and narrow the meaning of the adjective Hegel uses to describe the aspect by which something belongs to the dimension of right. For lack of a better translation, I will use, with my apologies, "rightly" in this sense.

my emphasis] be recognized as such. Whether recognition by others is added to (*hinzukomme*) an [act of] taking possession seems contingent or arbitrary. It must [*muß*] be added (*hinzukommen*), however, because this lies in the nature of the thing (*in der Natur der Sache*). The ground of recognition does not lie in reciprocity (*Anerkennen hat nicht den Grund der Gegenseitigkeit*). It is not because you recognize it [scil. property] that I recognize it or vice versa; instead, the ground of this reciprocal recognition is the nature of the thing itself. I recognize the will [!] of the other because this will must be recognized in and for itself. [All emphasis in the last three sentences is mine.]

A third text to which Wood refers is taken from Wannenmann's notes. This passage is taken from § 24 of the course, which precedes § 31 (Wa, 34), in which the transition to the intersubjective relations of Contract (§ 33 ff., Wa 35 ff.) is prepared. The text must be read in light of the preceding sections on the essence and genesis of possession and property (Wa, 17-27: §§ 15-24), which do not appeal to any form of recognition and contain the same theory as the *Propaedeutic* and the *Grundlinien*:

Possession has the external side of my relation to a thing (*die Sache*); on the other side, insofar as the thing is at the same time essentially taken up (*aufgenommen*) into my will, it is *property*, the timeless substantial relation of freedom (Wa 26).

After having stated that the emergence of property requires only my own free will and having developed some of its concrete applications, Hegel can make a transition to the recognition of this right via the rule that all concepts must realize themselves by taking on an appropriate *Dasein*.

Through the sphere of my freedom, which I have in property, I develop relations with other persons. The immediate one(ness) of personality is a repulsion into many ones. The *essential Dasein* [!] of property is the *Dasein* of its rightly absolute side, and this is [the fact] that in it [i.e., in this *Dasein*] the persons *recognize* one another as persons; i.e., [the fact that] in the consciousness of their [personal] identity with themselves, they know themselves as identical with the others through the mediation of the external *Dasein*, letting one another be free and independent (Wa 34).

In the interpretation of GrI 71 (a text to which Wood also refers), I will return to Hegel's attempt to deduce an interpersonal relationship from the concept of solitary property. However, from the quoted passages it is already clear that (a) "recognition" is qualified as recognition of personality and property, not as recognition

of self-consciousness taken in abstraction from all further qualifications, and (b) that this recognition is the rightful *response* to the already existing right of property, which is the "sphere of freedom that a person" has given to himself by "laying his free will" in an "impersonal exteriority" (Wa 19).

Wood also looks for support in § 490 of the 1830 version of the *Encyclopedia*. The words "mutual" and "being recognized" (*Anerkannntsein*) are indeed used in this section, but again the recognition at issue is not the one that unites self-consciousnesses in the discovery of their identity; instead it is the mutual recognition of proprietors — a recognition that follows, *as a consequence*, "the *infinite* relation of me to me" that constitutes personality. This recognition belongs, as the culmination, to the complete "being-there" of all persons' right. Section 490 of the *Encyclopedia* is in fact an excellent summary of Hegel's doctrine of personality and ownership.

In property the person is united (*zusammengeschlossen*) with itself [. . .] The concrete return of me into myself in the exteriority lies herein that [a] I, the *infinite* relation of me to myself, as person, [b] am the repulsion of me from myself, and [c] have the *Dasein* of my personality in the *being* (*Sein*) of other persons, in my relation to them, and in my being recognized by them (which recognition, thus, is mutual).

Although the parallel sections of 1817 (A 405) and 1827 (B 490) do not use the word *Anerkannntsein*, Hegel's conception of the relation between the singular will, personality, property, interpersonality, and recognition are there the same as in the *Encyclopedia* of 1830.³⁸

Appropriation (§§ 54-64)

As the immediate reality of the spirit, the singular person participates in the spirit's movement of self-actualization; a person *must* will the realization of freedom, in the first place, as property. Private property is not only a right, but also an obligation.³⁹

³⁸ Cf. *Hegels prakt. Phil.*, pp. 141-144.

³⁹ We could call this obligation a duty, if it were possible to strip the word "duty" of all its properly moral connotations. By reserving morality for his second chapter, Hegel indicates that abstract right, which he treats in the first

With regard to natural things, this means that I am free to appropriate and use them. In using them, the positivity of my will and the negativity of nature are realized and manifested in consumption or other ways of transformation or destruction (§§ 53, 59). Because nature is pure exteriority and dispersion, spirit is its absolute master. Natural realities are subordinate to the spirit's demands and needs; they do not have demands of their own (§§ 42 & R, 44). Ownership (*dominium*) is realized in the first place by appropriation: by being willed, a thing becomes mine. This is "the first substantial foundation" (*die erste substantielle Grundlage*) of property (§ 59R). Use (*usus*), however, is the appearance (*Erscheinung*) in which the grounding substance takes the form of a particular mode of mastering.

To be the owner of something, I must appropriate it by an explicit act of will, either by (a) physical occupation (*körperliche Ergreifung*),⁴⁰ (b) "formation" (*Formierung*), or (c) designation (*Bezeichnung*) (§ 54).⁴¹ What does this rule imply for the spiritual and corporeal features that each person already has by nature, such as a body with its organs and forces, certain properties, skills, and intellectual capacities? Can we say that we own them as rightful *proprietors*?

In itself and for others, my corporeal and spiritual features embody my personality and thus share its respectability. As we have seen above, this does not yet constitute them as property. To own them and have them at my command, I must take them into possession and will them as my own self-actualization (§ 47). This

chapter, is neutral with regard to the moral aspects of "right." With respect to Hegel's thesis about the correlation of rights and duties, see Enc C 486; Franz Grégoire, *Études hégéliennes: Les points capitaux du système* (Louvain: Nauwelaerts, 1958), pp. 340-350; and *Hegels prakt. Phil.*, pp. 119-128.

⁴⁰ The "immediate kinds of acquisition" (§ 217), which Hegel distinguishes in §§ 54ff., are conceptual elements that "today" (*nun*, § 217) are most often sublated in a network of contractual and juridical movements. It is, e.g., exceptional that some land is not yet appropriated by anyone.

⁴¹ Contra Steven Smith ("At the Crossroads: Hegel and the Ethics of *Bürgerliche Gesellschaft*," in *Laval théologique et philosophique* 51 [1995]: 357-358), who sees labor as the basis of appropriation, Hegel clearly states that *Besitzergreifung* (*occupatio*, grasping, taking into possession) is the primary mode. Labor is implied in the second mode: *Formierung* (shaping or giving form, §§ 56-57), and its core is again appropriation, but this time by transforming the grasped material into a realization of the shaper's spirit (will, imagination, intelligence, taste, etc.).

is shown by my using and developing their possibilities (§ 57). They thereby become “willing organs and animated means” of the spirit (§ 48). Persons who do not willingly appropriate their talents, do not actualize their personality. These, and the rights that go with them, must be taken into possession; otherwise they do not move beyond the level of mere possibility. Though every human being is a person in the abstract and formal sense of the concept or “*an sich*” (§§ 35, 47, 48, 209), the awareness and willing of this fact does not follow automatically. It is possible that certain people remain caught in a pre-“rightly” stage of life, without discovering their justified claims.

Appropriation presupposes a distance between the spirit and the realities that are appropriated. Infants and very young children are incapable of such a distance (§26). Hegel groups these and all who have not yet arrived at the level of self-determination with superstitious individuals who betray their own freedom by following the guidance of irrational leaders. “Insofar as these individuals and peoples have not yet reached this pure thinking and knowing of themselves, they do not yet have personality” (§ 35R). Or rather, they have personality only in themselves (§ 48) but not for themselves.

Some important consequences follow from these principles. If I myself must respect and actualize my personality, I am not allowed to treat it arbitrarily, either by destroying or harming or selling it. It is wrong to destroy or alienate the basic aspects of my spiritual life, including my very personality and freedom, my right to own things, and all of the ethical, moral, and religious rights that follow from being a person (§ 66 & R). The same is true for my body and the totality of my skills and talents, because I cannot be a real person without having my personality concretized in particular skills. For me, as for others, the basic law forbids violence against my own body and spirit (§§ 48, 65, 70). Suicide is therefore a radical form of injustice (§§ 66, 70). What I may give or sell to others is restricted to naturally exterior property (§ 65) and to a *partial*, for instance, temporary, use of my particular capacities (§§ 62 and 67). If I alienated the totality of my labor, time, and production — thus becoming a slave — I would give up the freedom of my personality; I would then wrong myself by robbing myself of my own will’s being-there. Indeed, *unlimited use* of what I have and am

coincides with full ownership and mastery (*dominium*) (§ 61). For “the *totality* of exteriorizations of a force is this force itself, [the totality] of the accidents [is] the substance [itself], [the totality] of the particularizations [is] the universal” (§ 67R). *There are thus realities that I can and must appropriate, without being allowed to alienate them.* These inalienable realities encompass my life, my body, my personality, my fundamental rights, the totality of my work or my skills, my autonomy, my moral and religious convictions. They must be owned but cannot be donated or sold. Ownership of myself and my possibilities is not arbitrary; my use of what I am and have is ruled and restricted by the *rational* demands of my autonomous will (§§ 40R, 66, and 70).⁴² On the other hand, as Joachim Ritter has underscored,⁴³ Hegel’s conception, according to which all realities that do not involve the core of my essence can be owned and exchanged as things, liberates that core by distinguishing it from the commercial, and, in general, the economic network in which we function as moments of universal exchange. Because our personality does not coincide with our property, we are fundamentally equal — not as particular owners, but rather as selves or free wills (§§ 66, 67, 80).

Slavery (§§ 35R, 57R, and 66R)

The question of whether slavery can be justified must be answered in this context (§ 57R). “The absolute point of departure” for a complete answer is clear: slavery is absolutely unjust (*absolutes Unrecht*) because it contradicts the concept of a human being (which, by itself [*an sich*], is a free person).⁴⁴

⁴² Wood, in *Ethical Thought*, pp. 99-100, criticizes Hegel’s argument in §§ 40R, 66 & R, and 70. The key to understanding these sections, however, lies in the insight that, as a person, one ought to become (*für sich*) what one already is (*an sich*). One *can* become or remain a slave, but this becoming or remaining is a betrayal of what one — as human, spirit, will, person (really, essentially, conceptually) — is. To act irrationally is possible but self-destructive. It is therefore a wrong committed against oneself. *Wille* (i.e., practical *reason*), not *Willkür*, is the principle.

⁴³ “Person und Eigentum,” in *Materialien* 2, pp. 165-167, referring to GrI 66, 67, and 80.

⁴⁴ The following sections of the *Grundlinien* are important for a complete picture of Hegel’s conception of slavery: GrI 21R, 26, 35 & R, 47 & R, 48R, 57R, 66R, 67, 261R. Cf. Wa 10 (§ 8R) and 51 (§ 45R); Ilt 3, p. 226, and 4, pp. 173 and

To make and keep slaves is the absolute crime, because it negates the personality of the slave in all its expressions. Murder [. . .] negates only the possibility of the expressions of [. . . someone's] personality, but not, as by slavery, their actuality (Wa 51).

This point of departure, however, is abstract. If there are people who are not yet aware of that truth, they will not be able to actualize it through their behavior. They will treat neither others *nor themselves* as free and respectable persons having inalienable rights. Existing on a lower level of self-awareness, their consciousness has not revealed to them what it means to be free. They cannot *think* (§§ 21R), and thinking is necessary to discover "the essence, the infinity, and the freedom" of human beings. As long as someone's self-consciousness is limited to the awareness of sensible inclinations and *Willkür*, it is not really human; only a *thinking* self-consciousness (not a natural or passionate one, for example) can know all humans, including itself, as free and willing in the proper sense of practical reason; only an *autonomous* conscience can be "the principle of right, morality and all that is ethical" (§ 21R).

In § 35R Hegel opposes the two levels of self-consciousness that are relevant in this context as *phenomenological* and *spiritual*. Explicitly referring to the *Phenomenology* of 1807 and the sections on phenomenology of the *Encyclopedia* of 1817, Hegel characterizes the phenomenological self-consciousness as the awareness of its being concretely determined in a natural (particular and contingent) way and involved "in external oppositions."⁴⁵ Driven by passions and other natural determinations, this consciousness is not led by reason; it has not yet reached the level of a free self, as defined in GrI 5; it is not a "self-consciousness [. . .] aware of itself as completely abstract I" capable of transcending all concrete particularities and limitations. The phenomenological self-consciousness is only the *appearance* of spiritual self-consciousness. The latter *can* remain hidden and undiscovered, although it is the ground and essence of the first, but it *should* become explicit. If its

538. Add to this several passages from the *Phenomenology of Spirit* and the courses on *Aesthetics* and *Philosophy of History*, as listed in the *Hegel-Lexikon* of Glockner and the Suhrkamp *Register*.

⁴⁵ GW 9, pp. 103 ff. and Enc A 344. See also GrI 8-9 and the explanation given above, pp. 211-215.

appearance (the phenomenological dimension without the spiritual core) is seen or enacted as fundamental, it is a "false appearance" (§ 57R). Transcending all determinations, spiritual self-consciousness knows itself as perfectly indeterminate, negatively free, simple, and infinite, neither imprisoned in natural drives nor abandoned to arbitrary choices. Only this kind of self-consciousness is the self-awareness of a spirit that possesses and wills itself (§ 35R).

The Remark on § 57 similarly opposes "the standpoint of consciousness" as "untrue appearance" to the true awareness of human beings.⁴⁶ From the phenomenological, pre-rational perspective, humans are seen as a particular kind of natural being (*Naturwesen*), i.e., as animals. In this abstraction, their encounter engenders disputes, which lead to the pre-rational and unequal relation of masters and servants.⁴⁷ *If we are not able to transcend the phenomenological standpoint, slavery becomes unavoidable. Inability to transcend nature is always accompanied by violence; in a naturalistic context, the question of rights and duties cannot even be raised.*

The discovery that humans are essentially free in the *spiritual* sense of freedom is a condition for the insight that slavery is an "absolute injustice," but this insight remains abstract when it is not effected through the institutions and the behavior of all persons involved.

Since children and superstitious people have not yet acquired the maturity of self-conscious volition (§ 57R), they differ from animals only through self-awareness, a specific type of natural inclination, and the capacity of arbitrary (but not necessarily rational) choice. This makes them easy prey for others who are stronger or more daring. The concept of personality forbids anyone to treat human beings as cattle, slaves, or tools; but this prohibition

⁴⁶ In § 57R Hegel uses terms of his logic of reflection. To consider slavery defensible is to lack the concept (*Begriff*) of the human essence (*Wesen*); but to remain at the level of an empty appearance (*Erscheinung*), which thereby becomes a mere semblance (*Schein*), is opposed to the contract as *Erscheinung* of abstract right.

⁴⁷ At the end of this Remark, Hegel refers to his discussion in the *Phenomenology* of 1807, p. 115 ff. (GW 9, pp. 110 ff.), and Enc A 352 ff., on the struggle for *Anerkennung* as a previous stage of consciousness, which must be presupposed in the philosophy of right, but is not sufficient to define the concept of right.

remains without effect where culture and education have not yet changed the primitive mentality of the people involved (§ 26). If we deem ourselves good enough to condemn those who own slaves, we should also disapprove of the slaves themselves (§ 70), although there is a great difference between a civilized person who enslaves another while well aware of the rights of every person, and the primitive who has not yet discovered his true worth. No person is justified in making another or oneself a slave, and no one can be forced to become another's property. There is always the alternative of death and dying for freedom is sublime, because it shows that humans are led by reason. Such heroism presupposes, however, that the dying person has already transcended the standpoint described in Hegel's phenomenology.

The opposition between the truth that slavery is absolutely unjust, including the slavery of children and childlike people, and the other truth affirming that slavery is natural and allowable, Hegel calls an *antinomy*. The seeming contradiction is resolved, however, when we understand that history needs time to actualize the *idea* (i.e., to realize the abstract concept) of freedom. As long as certain persons are only potentially free, slavery is not justified but — although “unjust-in-itself” — understandable. The primitive mentality that still rules large parts of the world, makes it impossible to abolish slavery immediately; but because it is a contradiction between concept and existence (§ 66R), it must and will be overcome. The “ought” (*Sollen*) that is contained in this necessity emerges from the concept, which is compelled by itself to become idea. This “ought” should not be heard as a simple wish or a merely moral duty; it demands the institution of an objective system of rights in which slavery becomes impossible. According to Hegel, such an institution can only be found in the state (§ 57 R).

CHAPTER FIVE

CONTRACT AND CRIME

Hegel's analysis of property, which was explained in the preceding chapter, is too abstract to provide an accurate picture of concrete ownership. All of the concepts, distinctions, and relations of Abstract Right, including those studied in this chapter, are too abstract to be taken as descriptions of concrete phenomena. While their social reality is the topic of Hegel's chapter on civil society (§§ 182-256), even there they do not show their full potential, because this also includes political aspects, which can only be understood within the framework of the state (§§ 257 ff.). The reference of someone's property to other persons who should respect it *if* they exist (i.e., its reference to the abstract concept or *possibility* of other persons) was anticipated in Hegel's definition of property, but the interpersonal relations that develop from it were not yet made explicit. While the abstract structure of the social relation implied in ownership is analyzed in §§ 71-80 (on the Contract), the concrete realization of that structure is given in Hegel's chapter on Civil Society (§§ 182 ff.). In this chapter, we will see how Hegel unfolds the abstract structure of the contractual relationship and its inability to defend itself against the negativity of crime. As in the other chapters of the *Rechtsphilosophie*, Hegel begins with a unified affirmative principle, which is subsequently differentiated into a systemic network of relations, but the end of each chapter shows how that network breaks down if it is not saved by a higher principle that opens a new possibility for the spirit.

Contract (§§ 71-81)

The main elements of every contract are the following:

1. One person owns something.
2. Another person wants to have that same thing as property.
3. Both persons agree to transfer the ownership of the thing from the first person to the second.

4. The result of this agreement is that the second owner becomes the proprietor of the thing, whether he has it in his physical possession or not.

5. Often, but not always, a contract concerns the *exchange* of property. Donation, too, is an example of the structure described in steps 1-4.

Hegel's philosophical analysis focuses on two questions:

(a) To what extent can the contract be understood as a necessary structure of concrete freedom?

(b) How can the contractual structure be deduced from personal property?

To answer these questions, he concentrates his attention on the change in ownership, which he sees as composed of the following moments:

(i) The owner (person A) wills that the thing he owns become the property of another (person B).

(ii) B wills that A's ownership passes to B, i.e., she wills the same event as A (namely, the transfer).

(iii) Two wills will the same event with regard to the same thing. A wills what B wills; they will that the thing from now on be owned by B; their wills, though remaining two, are identical insofar as both will the same transfer. Different wills here unite to constitute a common will (*gemeinsamer Wille*).

Further analysis must show that this kind of commonality remains a preliminary, contingent, and imperfect realization of the universal free will as dispersed in singular persons owning private property. The contractual relationship is a step on the way from the will as multiplicity of singular wills to the universal will (Rousseau's *volonté générale*) that holds the singular wills together through the rational necessity of their political union in the state. But before we begin this analysis, the question must be answered as to how the contractual structure can be deduced from the more basic realizations of free will: personality and property.

The relation between a single proprietor and others, anticipated in §§ 34-70 (especially in the sections on alienation, *Entäußerung*, §§ 65-70), is made explicit in § 71. Still reserving all particular questions about content, quality, and quantity for later considerations of needs and arbitrary choice, Hegel deduces the necessity of interpersonal relations from the necessary expression

of personality in property, by applying the (onto)logical insight¹ that being-there (*Dasein*) *ipso facto* implies being-for-other (*Sein-für-andere*), an insight to which he also referred in § 48R. The level of otherness implied in being-there depends on the latter's specific determination. By *externalizing* my will in a thing, thereby becoming its owner, my will becomes a piece of nature; this subjects me to all sorts of natural determinations and contingencies. However, as realized *will*, my will can only be what it is (namely, *self-determination*) if it refers to another will (at least one). In other words, owning something as *mine* cannot be comprehended, and therefore cannot be, unless there is also *thine*. The expressions "property," "ownership," and "mine," would have no meaning if I were alone in the world.

We have already seen that the dimension of personality and property is *not* derived from a preceding relation between persons. The source of all rights and rightful demands is the singular will as such, *not* convention or contract or any other kind of intersubjectivity. *On all levels of Hegel's philosophy, identity precedes (and follows) difference.* The intersubjectivity of self-consciousnesses, first deduced as mutual *Anerkennung* of each human's self-identity (Enc A. 352-357), is retrieved on a higher level in the *willing* reciprocity of contractual relationships, but both forms of intersubjectivity emerge from a prior unity and lead to a higher union. As we will see, the sequence *self-consciousness*→*recognition*→*universal self-consciousness (reason)* and the sequence *singular person (property)*→*contract (interpersonality)*→*community (family/state)* run parallel.

The transition from property to contract, thematized in GrI 71-75, exhibits parallels with the fight of self-consciousness for recognition, but does not coincide with it. Section 73 clarifies this by arguing that the alienation of property, which in § 65 is studied only as a possibility, is in fact a necessity. Just as *self-consciousness* is driven to its *own* realization by a desire to become aware of itself by having *itself* as an object (i.e., by a desire that can only be realized if *another* self-consciousness appears to it and reveals that it is indeed identical with the first consciousness) so does the *will* desire, or rather *will* (i.e., freely determine), that another will must

¹ For the transition from *Dasein* to *Sein-für-Andere*, see *Logic*, GW 11, pp. 60-63; Enc A 43-44.

be there to confront it with itself *as will*. My will must confront me (become *gegenständlich*) as *being-there* (*daseiend*). This urge for self-confrontation and self-mirroring is the law of the spirit as specified on the level of personal property. Once again, an original but abstract (self-)identity unfolds into a multiplicity by externalizing itself and thus becoming the center of a network of relations to other self-identities.

The interpretation given here is corroborated by student notes:

I must alienate my property in order that my will as such be objective (*gegenständlich*) for me. I will [i.e., I want to] observe (*anschauen*) my will in another will. They are wills that, being identical with themselves, posit [!] this identity and thus are each for itself.²

My will must be objective (*objektiv*) for me as will. On the one hand, my will is I myself, identical with me; but it must also be over against (*Gegenstand*), objective, for me; it must therefore be different from me and thus another will.³

Or, even clearer and more analytical:

Because of the sphere of my freedom, which I own, I come into relations with other persons. The immediate oneness of personality is a repulsion into infinitely many ones. The *essential being-there* of property is the *being-there* of its rightly [and] absolute aspect; and this is that the persons *recognize* one another as persons in that *Dasein*, i.e., conscious of their identity with themselves, they know themselves as identical with the others through mediation of the external being-there, and leave one another as free, independent [persons].

Relations between me and others, between my property and that of others, emerge from the fact that I give my will reality through property. Oneness (*das Eins*) is relation of the negative to itself, the repulsion from itself. But the concept of one-ness is being-for-itself, i.e., the negativity of being posited by some other (*ein Anderes*). This requires that there are many persons, but this manifold is not an immediate one; rather it is a necessary one. My being-there in my property is [!] a relation to other persons. Mutual recognition originates from this; freedom is for freedom (*das Freie ist für das Freie*). By knowing myself as free, I know myself as universal and the others as free; by knowing others as free, I know myself as free. Therefore, the principle of right [is]: Respect yourself and others in their property as persons.⁴

² Ilt 3, p. 265.

³ Ilt 4, p. 248.

⁴ Wa 31, p.34. Notice the primacy of "Respect yourself." Would Hegel ever

Could Hegel have defended the thesis that property and contract (or singularity and multiplicity of the will) are equally fundamental? Not within the logic of his system, where identity *always* precedes and follows multiplicity. From an existential or phenomenological perspective, co-originarity of self and others might be preferable, but it would destroy Hegel's own foundations because it evidently implies a radically different logic.

The analysis of the contract so far has yielded a double mediation: to be an owner (thus realizing the singular person's right) implies (a) domination over impersonal things appropriated through contingent choices *and* (b) a relation to at least one other singular will that wills what I will (§ 71), namely, my being the owner and having the right to transform my property into another's property.

That the commonality of different wills that emerges here does not yet actualize spirit's freedom in a perfect union of singular persons is obvious when we consider the contradiction involved in all contracts. It is this contradiction that precludes any contractualism of the state or the family.⁵

A contract must be seen as an event, or rather a process, in which property changes from being mine into being thine. As in all forms of becoming, this change is a contradiction that will be resolved through integration into a higher (or more fundamental) identity. It is neither bad nor avoidable, but rather a subordinate element in the universal hierarchy. In the course of a contractual process I am, as owner, a will that excludes others' ownership. To transfer ownership to another person, I must *remain* the owner until and *at* the very moment the other becomes the new owner. If I were not the owner at that moment, I would have no right to grant proprietorship to another. A contract therefore encompasses two contradictory acts: two wills coincide and are identical insofar as they will the same thing (the transfer of the property), but this cannot be willed unless they, as distinct singularities, will the simultaneity of two mutually exclusive ownerships. To put it another way, in contracting, I (still) will and own the thing, while at the same time ceasing to will and own it.⁶

have said "Recognize yourself"?

⁵ Cf. Ilt 3, pp. 265-272.

⁶ Cf. §§ 72 and 74. In "Hegels Begründung des Vertragsrechts" (in *Materialien* 2, pp. 176-200), Peter Landau provides very useful information on Hegel's

Contradiction is always a sign that something essential has been overlooked. The essential feature of willing is its universality, which — as will be shown — can only be concretized in a community whose freedom not only leaves the individuals within it “free,” but makes them actually and truly free.

As a conclusion of sections 72-75, in which he delineates the abstract concept of contract, Hegel emphasizes the imperfect and subordinate character of contractual freedom by underlining its singular and arbitrary, contingent and posited character. Free will is here realized in the form of separate singular wills that, through contingent choices (*Willkür*), posit a common will willing a singular thing. Neither the particular object, nor the coincidence of *these* wills, nor the fact that *these* persons enter into this relationship can be derived as necessary concretizations of the principles hitherto discovered. Because singularity and choice (*Willkür*) are constitutive of the contingent commonality of both wills, we cannot speak here of a true, conceptual, and self-unfolding universality. The will that emerges from *Willkür* is only common (*gemeinsam*), a contingent coincidence of two choices; two wills have become “identical,” but only contingently. Their identity is “only apparent” (*nur scheinende*); it is not the essential or substantial identity, which can only be realized on the level of ethical life.⁷ Insofar as it contains an unresolved contradiction, this *appearance* of universality cannot be the basic paradigm for a theory of human community.

Hegel insists on the spiritual and volitive essence of the contract. Need, utility, benevolence, and other motivations should

dependence on the contract theory of the natural law tradition and the juridical literature of his own time. He claims that exchange or barter (*Tauschvertrag*) is paradigmatic for Hegel's contract theory (pp. 181-182). The identity of two wills in the transfer of ownership is then made possible by the distinction between the particularity of the property and the universality of its value (defined in § 63), which remains owned by the one who hands the object over. In Griesheim's notes from the 1824-25 course (Ilt 4, p. 249), the explanation of § 74 does use this distinction, but it can be understood as an explanation by way of the easiest example. However, the text of the *Grundlinien* clearly defines and explains the contract in general (§§ 72-75) *before* it distinguishes exchange and donation (§ 76), while the role of value is brought in following the latter (§ 77). See also note 23 of the preceding chapter.

⁷ Cf. Ilt 3, p. 268: “Hier ist der Wille nur gemeinsam; die Identität ist nur scheinende . . .” (“The will is here only common; the identity is only appearing.”)

not be neglected, but they do not constitute the essence or the validity of the interpersonal unity inaugurated in contracting. Likewise, the factual performance or lack of performance does not change the contract itself (§§ 78R, 79 & R). Contractual relations realize human reason, not animality or mere self-consciousness. The recognition of persons as proprietors implies, of course, the relation between self-aware subjects and therewith the phenomenological moment of mutual recognition, but *respect* is impossible without recognition of the other *as a willing person*.

Distinctions (§§ 76-80)

In §§ 76-79, Hegel addresses the traditional distinctions between agreement, stipulation, and performance, distinctions that are necessary and decisive for the discussion of many complicated questions concerning contract law. Without entering into the discussion specifically (Hegel leaves it to the *Verstand* of the lawyers), he formulates principles on which such a discussion should be based. At the same time, he sets up the classification of contracts provided in § 80, which, for the most part, he borrows from Kant.⁸ This classification concludes his treatment of the contract.

The logic of the distinctions made in §§ 76-80 can be summarized by opposing two groups of conceptual moments, one of which represents the “substantial,” essential, or properly rightly side of the contractual dimension, while the other group represents components of its exterior being-there. The presentation of these groups in two columns might clarify the parallelism between them.

<i>Substance (essence)</i>	<i>Being-there (external appearance)</i>
§§ 5-9/10-11: will	need
§ 45: property	possession
§§ 78-79: agreement	performance

While the will, property, and agreement constitute the spiritual essence of contractuality, its concrete relativity — without which

⁸ As he himself states: “The division given here generally coincides with Kant’s division [in] “Metaphysical principles of the doctrine of law, p. 120 ff.” (= *Metaphysik des Sitten*, Ak VI, pp. 285-286).

the contract would become pure appearance and a lie — consists in the effective transferral of possessions, a transferral that is motivated by needs.

Lawyers might be surprised and disappointed to find in Hegel's treatment of contract right merely an elaborate definition (§§ 72-75), a few rudimentary distinctions (§§ 76-79), and a classification (§ 80). However, in § 80 Hegel justifies his brevity by remarking that the specification of the general concept follows from the nature (i.e., the essence) of the contract, whereas a full treatise (*Abhandlung*) itself, which should be based on the essential distinctions, is a question for the *Verstand*. The philosopher's task is to concentrate on the fundamental framework and the basic distinctions, while leaving the application to the intellectual (*verständige*) elaborations of lawyers.

The importance of §§ 72-80 lies primarily in the interpersonal dimension that Hegel has opened up. While further developments will show how the multiplicity that has emerged creates new problems, Hegel has laid the foundation for a social philosophy. This was not yet achieved on the level of phenomenology because the mutual recognition of self-consciousnesses does not by itself imply any rights or duties.

Before criticizing the frugality of Hegel's contract theory, we must remind ourselves that his chapter on "abstract right" is restricted to the purely formal elements of law. The particular motivations and possible contents of real contracts, the networks relating concrete persons within a society, the complications and demands that issue from it, and all properly moral considerations are bracketed in order to isolate their formal essence. Hegel will, however, focus on these issues in his treatises on morality and the human society as they are ruled by the economy of property and contractual activity. To grasp the social relevance of the notions studied up to this point, one must turn to his chapter on "civil society" (GrI 182-256).

Crime and Punishment (§§ 82-103)

All the elements of "right," including abstract right, morality, and ethical life are integrated in the state, which Hegel considers the perfect actualization of objective spirit. However, there are many

states and, as we will see in Chapter Eleven, this multiplicity confronts us with a dimension of violence and dispersion comparable to the state of nature from which right and *Sittlichkeit* deliver us. Will Hegel show that the confrontation among various states necessarily leads to a world-encompassing synthesis? On the contrary, the international dimension proves to him the impossibility of a final and complete actualization of freedom on the level of *objective* or *ethical* spirit. "Right" cannot entirely overcome irrationality and violence.

Even within the single state and all its subordinate dimensions, violence, and evil are present, but Hegel suggests that the rational institutions of family, civil society, and politics can for the most part absorb them and compensate for them. But why does irrational behavior occur on all levels of human praxis? For Hegel, recurring violence is not a mere fact — it contains some sort of necessity. As moments of freedom's self-mediation, irrational expressions and perversions of reason and right are inevitable.

The main dimensions where evil occurs are:

1. The abstract dimension of right (§§ 82-102)
2. The dimension of morality (§§ 139-140)
3. International violence (§§ 320-330)

In this part of Chapter Five, we will study the perversion of abstract right: the infringement of personality, property, and contract law. The general title for these infringements is *Unrecht*: the contrary of rightful behavior, "un-right," or "wrong" (§§ 82-102).

The Source of Evil

Hegel's "genealogy" of evil begins before his explicit deduction of *Unrecht* in § 82 ff. As we have seen, the imperative (*Sollen*) contained in free will and right becomes apparent as soon as a human being becomes aware of being a person. This imperative commands us to rise above the conditions of savage, merely natural beings (*Naturwesen*) in order to appropriate some property, to form and civilize ourselves (*Bildung* or *Ausbildung*), to avoid falling into slavery or selling our entire capacity for work, and so on (see especially §§ 52R, 57 & R, 62 & R, 66 & R). When we fail to do this or, worse, when we oppose these commands, we act unrightly and, in this sense, commit *Unrecht*. The emergence of evil therefore

precedes all contractual relations between persons; it originates in the opposition between an individual's singular will, with its particular interests, and this same individual's universal or rational (or truly free) will.

Hegel formulates this definition of evil when he writes:

What the spirit is according to its concept or *an sich*, it must also be in *Dasein* and *für sich* [. . .]; this idea is itself its concept (as *causa sui*, i.e., as free cause, the spirit is something *cujus natura non potest concipi nisi existens* [whose nature cannot be conceived of except as existent]. Spinoza, *Ethica*, Part I, definition I). It is this very concept of the spirit as being what it is *only by itself* and as *infinite return into itself* from the natural immediacy of its *Dasein*, which contains the possibility of the opposition between that which the spirit is merely *an sich* — and not also *für sich* (§ 57) — as well as the reverse opposition between that which the spirit is *only for itself* [but] not in itself.⁹ (In the will [this opposition constitutes] evil) (§ 66R).

Though Hegel for the most part uses “*das Böse*” in a moral sense, in the final words of his quote (“*im Willen das Böse*”) it has the more general meaning of any split between the *an sich* (or concept) and the *für sich* (or realization) of the idea of free will. The refusal to concretize what the universal will wills in me, in the existing reality of the universe (i.e., in the *Dasein* of my mind and body and world), is the source of all evil. Since the reality (*Dasein*) of my concrete willing is always particular, any opposition or contradiction between the particular will of individuals and the universal will (which is their own rational and therefore most true will) constitutes “un-right” or evil. As long as we concentrate on the abstract level of Hegel's first chapter, this evil, as wrong, does not yet have *moral* connotations; it does not yet involve personal vice or bad intentions, but is limited to the objective relations between the factual behavior of individuals and the universal demands of the free spirit (§ 96R). *The structure of evil, like the essence of freedom, personality, and property, precedes all intersubjective relations, structures, and institutions.* As the betrayal of our own *free* (i.e., not arbitrary, but rational) self-determination, it accompanies, as a

⁹ The last sentence is incorrect. Hegel wants to say that the opposition that constitutes evil opposes the will *an sich* and the will *für sich*, either as a will that does not acquire its being-for-itself or as a will that is for itself but is not in concordance with the will in itself.

shadow, the distinction between the three moments of the concept: if the universal moment cannot integrate the particular and the singular moments, it condemns their resistance.¹⁰

The Necessity of Injustice (§§ 82R, 83-89)

Injustice occurs in many forms and on many levels of society, but how are we to understand the recurrence of this fact? Instead of empirical descriptions, a philosopher seeks to acquire an insight into the structure of injustice and its connections with other elements of society. For Hegel, this means that we must deduce the necessity of this phenomenon from the idea of justice to which it is opposed. Within the horizon of *abstract* right, the deduction must be limited to the most abstract analysis of the links between injustice and the conceptual structure of personality, property, and contract already explained in §§ 34-80. The transition from the contract (as the summary of abstract right explained thus far) to the basic, but still very abstract, form of injustice is again an application of the logical principle according to which a concept necessarily realizes itself. On the level of abstract right, this "logical necessity" means that "right *an sich*" (or the concept of right) must realize itself in an *existing* right (*Dasein* of right or "right in its *Existenz*," § 81R). However, this necessity not only implies that the concept of personality ought to *and must* realize itself in property, that property necessarily develops into contracts, and that contracts ought to be accomplished, it also prescribes that the differences and contradictions contained in "the *abstract reality* of the concept" of right "must be posited as different *für sich*" (§ 81R).

Before we trace Hegel's fairly abstract deduction of *Unrecht*, we might do well to anticipate his distinction of the three kinds in order to have a more concrete image of the sort of injustice that is at stake in this chapter (§§ 83 ff.).

The first kind is innocent and unprejudiced. Though fully recognizing the principles and demands of right, as concretized in

¹⁰ For the first appearance of good and evil in Hegel's psychology, see Chapter Three above and *Foundations*. Because the chapter on abstract right abstracts from the moral aspects of wrongdoing, criminal behavior is not yet seen as full-blown action (*Handlung*). The concept of *Handlung* is not introduced until § 113, where it serves to define the moral (aspect of the) will.

property and contracts, the person involved is mistaken about the application of those principles to a particular thing. She thinks, for example, that she owns a piece of land, which she in fact does not, because when she took possession of it, it had already been duly appropriated by another. Such "collisions" are handled in civil law (§§ 84-85). The generic essence of right and the claims of the true proprietor are here recognized, but the particular right of the claimant is contested. A split between the universal and the particular will thus becomes apparent. On the level of abstract right this split cannot be overcome, because the parties, however willing to respect the true concretization of right, are led by their own particular interpretations and interests. Right here remains an abstract universal or a genus whose particularization is still undecided. Its *Sollen* cannot be actualized until we reach a more concrete level of justice, involving judges and judicial procedures.

The second kind of *Unrecht* or wrong is deception (*Betrug*, §§ 87-89). Here the contract itself, with its inherent demands, is used to deceive the other party. Since abstract right, as realized in a contract, is only a claim (a *Sollen*), the subjective will of a contractant can manipulate it to create the semblance of a concrete instance of right where in fact there is none. The identity of the contracting wills is then a false appearance. Hegel gives the example of an unrightful exchange. As we saw before, an exchange presupposes a certain equality in the value (*Wert*) of the goods. It also presupposes that these goods indeed belong to the persons who exchange them. If I buy something that the seller does not own, or if its value turns out to be much less than the seller told me, the seller has deceived me. His particular will has taken advantage of the demands inherent in contract right in order to promote his own particular interest. The generic *Sollen* (i.e., the universal moment of right) is unprotected against *Willkür* when someone prefers to follow the particularities of her subjective inclinations.

The third kind of injustice, "crime" (*Verbrechen*, §§ 95-97), does not even create a semblance of right, but radically rejects its generic concept (§ 83). It explicitly or implicitly contradicts the idea of right as such by being its contrary. Each crime is an attack on something owned by someone else, e.g., another person's house, freedom, or body. Hegel's analysis of *Unrecht*, as the basic

but still abstract level of injustice, focuses on crime because this is the least ambiguous kind. The other kinds can be analyzed as approximations, but the straightforward contradiction realized in crime is the guiding thread that unifies the entire third section of Chapter One (§§ 82-103).

The Fragility of (Abstract) Right (§ 81)

The “immediate,” “abstract,” and fragile character of right in its basic form appears clearly when we see that its realization depends on the singular wills of individuals who have their own particular interests. The link between right’s *universal* demands and its *particular Dasein* in the wills of right-abiding *individuals* is a tenuous one. This can be shown by analyzing the consequences of a contract.

What the contracting parties have realized is a common will, in which their particular wills unite in order to constitute a particular obligation for both of them. The particular wills coincide and are, in this sense, identical. What they seek is a particular concretization of the universal demand of right: both parties ought to recognize and respect the obligations that are implied in the rights and duties stipulated in the contract. Whether the individuals involved will adhere to the common will expressed in the contract and whether both will deliver what is stipulated is not guaranteed, however. The continuation of their identical will and its realization depend on their particular wills, which *can* change and contradict the contract itself or one of its details. The fulfillment of the *Sollen* (or the right) contained in the contract is contingent (*zufällig*) because the *Willkür* of one or more parties can refuse to recognize or actualize the right that was concretized by their common consent.

Because contingency is an essential element in the concept of the contract, Hegel believes that it must be actualized and revealed *as such*, i.e., as merely contingent and not necessarily actual.¹¹ The difference between the abstractness of contractual right (its *Sollen*)

¹¹ On contingency (in the technical sense of *Zufälligkeit*), see *Logic*, GW 11, pp. 381-385; Enc A 93-94 (C 144-145). Cf. the literature cited in Chapter One, note 71.

and the reality of the contracting parties' particular wills must reveal itself as a difference or non-identity. But how is this possible? Hegel answers that this happens only if an opposition appears between the *Sollen* (the concept of the will) and the behavior of at least one of the singular wills. Such an opposition is given in crime and, to a lesser extent, in deceit or other non-violent kinds of *Unrecht*.

The ontological assumption behind this deduction of injustice lies in Hegel's conviction that the categories of his logic are at the same time ontological elements, which must realize and manifest themselves *and their differences* as such in the empirical universe. If they did not, their unity would be simple, undifferentiated, and immediate. The contingency of the link between (contractual) right and (behavioral) reality must be discovered through the comparison of realization and (existing, not merely imaginary) negation or non-realization. It is not sufficient to imagine or abstractly think the non-identity of the particular and the universal wills, they must also show this through real cases of *contradiction*.

Despite its fundamental importance for the entire philosophy of right, the level of abstract right is dominated by a powerless *Sollen* and individual choices that are driven by particular interests. The voice of the universal will can be heard by individuals, but their *Willkür* is not necessarily bound by it. To realize the universal will, they must become morally good, while objective institutions must sanction the general fulfillment of that *Sollen*. The analysis of §§ 82-103 will show in more detail why the level of contract demands both specific moral intentions and ethical institutions to guarantee that the demands of right do not remain abstract.

The Argument (§ 82)

Section 82, which defines the concept of wrong (*Unrecht*), summarizes the quintessence of the entire third part of Abstract Right — and in some sense even the entire book. It shows that right remains abstract, vulnerable, unwarranted, and inactual as long as the conditions are not realized through which it overcomes its negation in “un-right.”

The analysis of the contract has shown how the essence (the *Wesen* or abstract concept) of right appears (*erscheint*) in the

common will, which is posited by the contracting parties. By uniting, their particular wills realize the universality of right in the empirical reality. This appearance (*Erscheinung*) of right's essence is confirmed if the parties fulfill the conditions they stipulated. If either wrongs the other (inadvertently, deceitfully, or criminally), the execution of the contract does not reveal but instead distorts its essence (the universal claim of right as concretized in mutual agreement). The appearance (*Erscheinung*) changes into a false semblance (*Schein*). The relation between semblance and right is then no longer an expression of the essence, but a betrayal, i.e., a form of contradiction. The particular will of the person who breaks the contract contradicts itself, for this same will agreed to the content of the contract (which is its own and the other's concretization of the universal will at the heart of right), whereas it now denies that content and disclaims the right whose universality it had specified as an obligation for itself.

A semblance is opposed to the essence of right as such. If the essence is the truth of right, the *Schein* can only be its contrary: untrue, false, invalid, void, null. However, the idea of right (i.e., the spirit itself as free will and self-determination) is not so weak as to let the particular wills of singular individuals destroy or prevent its actualization. It not only demands that the nullity of the injustice performed be undone, but effectively realizes this demand by nullifying this injustice: the criminal negation ought to be negated *and will be negated*. The second negation is realized in the punishment of the wrongdoer. Punishment is thus nothing other than the actualization of right against (and through) its denial. By annulling the crime, right (the spirit's universal will) (re)affirms itself through a double (or "absolute") negation. The crime (or any other form of wrongdoing) thus serves as an element in the mediation through which the spirit determines itself as prevailing actuality. In the form of criminal law, right overcomes all attacks upon it. Without criminality right would not have the opportunity to be in *and for* itself; it would then remain immediate and abstract, a mere *an sich*.

Having given the outline of his argument¹² and formulated it in terms of the logic of essence, Hegel must fill in the details and

¹² Hotho's course notes (Ilt 3, pp. 282-284) are helpful here.

explain how the double negation is realized concretely. But before he does this, he proceeds, characteristically, to a *divisio* or differentiation of the concept he has just defined (§ 83). Resuming the logical structure of wrong, as explained in § 82, he enumerates three ways in which it can betray right: the semblance can be (1) immediate or *an sich* (not willed as such, but “just there”), (2) posited (intended, willed) as semblance by a human subject, or (3) simply annulled (the criminal does not even try to mask his injustice). However, in analyzing these three kinds of wrong, Hegel switches from the logic of essence and appearance to the logic of the judgment, which is part of the logic of the *Begriff*. He characterizes the three kinds as (1) *simply negative* (§ 85), (2) *infinite* “according to its *positive* expression or *identical* meaning” (§ 88), and (3) *negative-infinite* judgments (§ 95). In § 53 we encountered the distinction of *positive*, *negative*, and *infinite* judgments as the logical pattern that ruled Hegel’s division of appropriation.¹³ However, because all three kinds of wrongdoing negate right, the concretization of the immediate judgment (or judgment of *Dasein*) is here different. Wrong can never be a positive (i.e., a right-affirming “judgment”). In its most unreflexive form, as naive wrong, it still contains the positive adherence to the universal claims of right as such, but it negates the subsumption of a singular object under the true proprietor’s right to own it (or it does not “predicate” the rule of right of this property).

In the case of fraud everything seems to be in order, except that the person who commits the fraud is not, and knows he is not, the

¹³ Hegel presents this *divisio* as an (onto)logical necessity. Because *Unrecht* is a split within the realization of right (the particular will and the universal will are opposed instead of coinciding), it must be understood as an *Ur-teil* (a judgment and a partition); and because *Recht* and *Unrecht* belong to the immediate *Dasein* of right, the analysis must be led by the logic of the “judgment of *Dasein*.” In §§ 85, 88, and 95, Hegel refers to his treatment of this structure in his *Logic* (GW 12, 59-70). As we saw in the preceding chapter, he distinguishes between positive, negative, and infinite judgments (cf. also Enc A 412-413). That distinction was used in § 53 to distinguish three kinds of appropriation; however, wrong is negative in a stronger and different way than appropriation or alienation. Though both alienation and wrong emphasize the non-unitive, oppositional aspect of abstract right, wrong is a kind of corruption that seems to destroy the basis of right, while alienation is not. Within the genus of wrong, there is then still a (logically necessary) progression from the positive scission (innocent wrong), via the negative split of fraud, to the negatively infinite crime.

owner, though he pretends to be such. There is a positive claim, but the claim is false. In fraud someone affirms all the aspects that normally manifest a right and publicly recognizes its demands, but in truth he negates them. The "infinity" of his "judgment" lies in the affirmation of two facts that are contradictory: the appearance suggests a right, but this right does not exist and is *known* not to exist. The transaction that is achieved is said to be legal and achieved as such, but the fraudulent party knows it to be illegal. The affirmation of the universal claim (this singular object is my property, $S = U$) is at the same time the affirmation of the contradictory claim: I do not have the right to sell this object; S and U do not have anything to do with one another; I know that S lies outside the dimension of right (U), although I affirm that it lies inside. The analysis of this kind of wrong yields two incompatible judgments: "this thing is my property" (the wrongdoer pretends $S = U$) and "this thing is not my property" (I know that in truth $S \neq U$), while I continue to affirm (even in conscience) that right ought to be respected ($U = U$) and that this thing is this thing ($S = S$) with these attributes.

The expression Hegel uses to characterize fraud as a judgment is rather puzzling. What does he mean by "the infinite judgment according to its positive expression or identical meaning" (§ 88)? He explicitly refers to Enc A 112, where, in an obscure remark, he distinguishes *infinite* judgments from *identical* judgments, adding that neither are true judgments, because they can occur only in subjective thought and not in objective reality. Georg Mohr (in *Siepf, Grundl*, p. 99) and Vittorio Hösle (*Anspruch und Leistung*, p. 88) interpret § 88 as referring to an identical judgment ("this lion is this lion," $S = S$), in which the universal predicate ("is a right") is silenced, but this interpretation seems to me impossible, because the judgment must here *express* or *manifest* that the subject is *falsely* declared to be property ($S = U$, while $S \neq U$). In Hegel's *Logic* (GW 12, p. 70), the positive version of the infinite judgment cuts the ties between S and U , losing therewith its judgmental character. It has the form of $S = S$ and $U = U$.

In crime, the negation is complete: without appealing to any appearance of right, the criminal simply denies that right is right ($U \neq U$). Whatever the appearances are, he does not recognize the universality of right's claim. A criminal does not claim to have a

right that in fact does not exist, as in fraud; he denies the basis and essence of the entire dimension of right (§ 95). Hegel here explicitly refers to his analysis of the *Urteil* in the *Logic* (GW 12, pp. 69-70), where he analyzes the difference between a civil lawsuit (corresponding more or less to the first sort of wrong described in GrI 84-86) and a criminal case to illustrate the difference between the negative and the infinite judgment. In § 53 he tacitly presupposed those distinctions to clarify a traditional distinction between three kinds of appropriation; and when treating the contract (§§ 72 ff.) he simply followed Kant's division without appealing to his own logic of the judgment, although the contractual relation, as a non-comprehensive relation, shows a certain similarity with the non-comprehensive structure of the judgment.

Why does Hegel refer to the logic of the *Urteil* in the context of appropriation and wrongdoing? The answer seems obvious: the specifications of these two genera seem justified if they can be shown to concretize a logically necessary distinction of the propositional structure. However, Hegel has not proved that appropriation and wrong do indeed have the structure of an immediate judgment (and not one of the other three genera of judgments); he does not relate these practical "judgments" to other phenomena of right, which he would characterize as other sorts of judgment; and even the relations between positive, negative, positive(?)-infinite, and negative-infinite "judgments" does not become clear. His off-hand remarks in §§ 53, 85, 88, and 95 obscure rather than clarify the structures at stake. If Hegel attached much importance to the relationship between his *Logic* and the logic of the *Grundlinien*, he has missed a chance to clarify this.

However, Hegel's references might be meant to emphasize that abstract right is governed by a structure in which the singular subject (the person) and the universal predicate (the right of the person in its most abstract form) are linked in a still very unmediated, i.e., abstract or immediate, way. This structure is indeed obvious in Abstract Right and it is possible to see the following chapters as a gradual transformation of the most simple structure of the immediate judgment of *Dasein* into more complicated, still judgmental structures (Enc A 122-128), until we arrive at the fully syllogistic form of the state. Hegel himself did not feel the need to

dwell on the logical details of that progression, but a reconstruction could be attempted in which the sequence concept-judgment-syllogism would become the leading thread.

Violence (§§ 90-97)

Without dwelling on the first two kinds of *Unrecht* (§§ 84-86 and 87-89), let us immediately proceed to the third, in which the inner contradiction of all wrongdoing is shown most clearly. The definition of crime that is implied in § 83 is given explicitly in § 95, but Hegel prepares it in §§ 90-94 by analyzing an element that is constitutive for both crime and the correct response to it. This element is *coercion* (*Zwang*).

As a rejection of right, crime denies the claims and the essence of free will, personality, and property. But how can it reject, deny, or annul free will, since free will, as self-determination, cannot be dependent on any other entity than itself (cf. §§ 5-7)? As free persons, we can always withdraw from all influences and determinations (§ 6), even if, in certain situations, this might imply that we prefer to die. A free person who allows himself to be enslaved, for example, is "guilty" of betraying his own freedom.

The free will cannot in and for itself be compelled (*gezwungen*) [. . .]. Nobody can be compelled to anything, unless he *wills* to be compelled (*bezwungen*, § 91).

The only way to attack my will is to exercise force (*Gewalt*) against my property (including my body, my work, my skills and products, and so on). In my property, my will has become a part of the physical world, which can be influenced by force (*bezwungen*). My will can therefore be blackmailed: someone can "force" me to do or to sacrifice something ("your money or your life!") by threatening or committing violence against my body or possessions. If I do not give in, it is still possible for the other to overpower (*bezwingen*) me by physical force, but I still *can* remain free within (§ 90).

Violence is a paradoxical phenomenon (§ 92). Since the idea of the will must actualize itself in some *Dasein* (its property), this property is the actuality of the will. Violence against this *Dasein* is a (free) will that (totally or partially) destroys the actuality of the (free) will of the owner. Since both wills are identical in the idea,

insofar as both wills are instances of the universal rational will that constitutes human beings, crime constitutes an inner contradiction: the violence done is the *Dasein* and expression of a will that destroys the *Dasein* and expression of another's will. Because both wills are particular instances of the universal will (with its non-chosen rationality and claims), the will of the criminal contradicts itself: it denies the basic right of its own rationality. As an expression of free will, violence contradicts the expression (in property) of free will. This contradiction is not only an injustice that ought not occur (and if it occurs, ought to be repaired), it also necessarily destroys itself by destroying the destructivity of its own willing.¹⁴ The first, destructive coercion (the violence against rightful property) must therefore be followed by a second coercion (*zweiter Zwang*) in order to abolish the first (§§ 92-93). The demand that the first "*coercion be abolished through* [a second] *coercion*" (§ 93) is thus a direct consequence of the structure of criminal coercion. The concept of right has the structure of a double negation.

Only now can we understand why many definitions of right include sanction or coercion as distinctive, especially in comparison with morality. Abstract right is indeed coercive (§ 94); force — rationally justified and therefore non-violent — is necessary for its actualization. Without it, right would remain a dream; coercion is, however, a *consequence* of its concept (which includes a *Sollen* as the ground and reason for the sanctions) rather than a *basic* element. However, though an extremely abstract right can be conceived without introducing any coercion, if "unright" is inevitable, sanctions are essential for its realization in the real world. But then both the phenomena of *Unrecht* and its overcoming are constitutive for the actuality of right.¹⁵

Justified Coercion (§ 93R)

While crime is an unjust and wholly unjustifiable form of violence, the "second coercion" (*zweiter Zwang*, § 93), which is a response to

¹⁴ Ilt 4, p. 272: "This nothingness (*Nichtigkeit*) itself has its concrete *Dasein*."

¹⁵ Hegel acknowledges that right and morality can be distinguished by the presence or absence of reinforcement through sanctions, but he maintains that this distinction does not reveal the core of the question. Cf. Ilt 3, p. 296: "Right in its restricted sense is coercive, and that distinguishes it from morality." Cf. also Ilt 4, p. 275 and Hegel's marginal notes in Ilt 2, pp. 345-347.

crime, is rationally necessary. But what about forms of coercion that are used in education and colonization? Hegel points out that *all* rational forms of forceful constraint presuppose a first, irrational kind of violence. The only possible justification of *Zwang* lies in its being an appropriate response to a first, unjustified realization of it. It is therefore necessary to show that, for example, pedagogical uses of force are rational and justified insofar as they are appropriate responses to preceding forms of violence. Hegel shows this by appealing to the difference between freedom and nature. When nature, in the form of natural inclinations and drives ("the natural will"), has not yet become the embodiment of a rational and free will, it is still savage, arbitrary, and thus essentially violent. The same is true of the behavior displayed in the "state of nature," i.e., the natural state that precedes its transformation into the ethical state of freedom. To the extent that it is opposed to (or not yet integrated into) freedom, nature is irrational, violent, "un-rightly." It demands liberation through rationalization. Insofar as all civilization implies force and constraints (and consequently submission and pain), *Zwang* is not only permissible, but necessary. Children must be educated and populations existing in a state of natural violence must be forced to enter into a state of freedom and right. The right to educate uncivilized persons belongs to their educators, while the right to impose law and order on primitive tribes is the right of such heroes as Theseus and Napoleon, who through their counterviolence abolished the rightless situation in which they found their people.¹⁶

Crime (§§ 95-96)

The previous analysis of coercion (*Zwang*) and violence (*Gewalt*) was required in order to understand Hegel's definition of crime. It is the first violent coercion, through which a free person not only negates a particular property but also the entire idea of right, as

¹⁶ This *Heroenrecht* is valid wherever an individual imposes the principle of right (freedom) on a wild, *merely* natural situation. The original text of GrI 93R reads "*Herrenrecht*" (right of the master), but most editions have replaced this with *Heroenrecht* in concordance with Hegel's use and explanation of this term in his courses (Ilt 3, pp. 295-296 and 4, p. 274) and many other passages of his work, e.g., GrI 102R, 118R, and 350; *Ästhetik*, Su 13, pp. 243-248.

concretized in that property (§ 95). Or, to put it in terms of willing, the criminal's particular will negates the right of another particular will that is the correct concretization of the universal (though still abstract concept of the) will, of which *both* particular wills are realizations. The criminal will not only negates another's will, but also its own concept (i.e., the universal will of which it is an incorrect, treacherous, or murderous realization). The criminal damages or even destroys his own will by particularizing it against itself. He wills contradictorily (see also § 99).

The basic structure of all crimes — and consequently the entire dimension of criminal law — is thus outlined. While crimes against the family or the state have a more complex structure than that sketched on the level of abstract right, they are not fundamentally different.¹⁷

Though Hegel does not mention it here, his definition of crime is broad enough to include all wrongs persons might inflict on themselves, such as self-mutilation, acceptance of slavery, or suicide.¹⁸ These cases best illustrate Hegel's thesis that choices or contracts cannot constitute but only concretize the basic demands of right. I am not "free" to choose my existence as a person, but I can determine how to realize my personality. If I damage or destroy it, I commit the highest injustice toward myself.

For the evaluation of a crime (and consequently for the quality and measure of punishment) the crime itself is the criterion (§ 96). Since the criminal attack on freedom cannot directly affect the free will but only the *Dasein* in which the free will has realized itself, the effect of the crime is an empirical reality with specific quantitative and qualitative determinations. Because the chapter on abstract right abstracts from all moral considerations, we cannot yet ask to what extent the different intentions of the various perpetrators must be taken into account as extenuating or aggravating factors. What counts at this level is an objective determination that can then be transformed into more complex

¹⁷ Ilt 3, pp. 299-301, especially 301: "Crime is [. . .] always an attack on a *Dasein* of freedom. The higher the *Dasein* of freedom, the higher the attack. But what would be a crime on a lower [I read: "*unterer*" instead of "*unserer*"] level, can even be a duty on a higher level. But the nature of the crime remains the same: [it is the] violation of a right that has the significance of a universal right, though it is there as [a] particular [right] . . ."

¹⁸ Cf. § 66R on inalienable rights.

qualifications on higher levels of actuality, which also encompass the moral point of view (§ 96R). Many differentiations are already required from the abstract and purely objective perspective on right, but the most important are the quantitative distinctions between a total denial of right, which occurs, for example, in murder or enslavement,¹⁹ and a partial denial, such as stealing, and the qualitative distinctions between different kinds of crime, such as robbery and blackmail. To neglect these distinctions (and therefore to punish all crimes with the same measure and type of punishment) reveals a lack of civilization. As examples, Hegel mentions not only Draco's legislation, in which capital punishment was the one and only punishment, but also surprisingly the opinion, which he ascribes to the Stoics, that there is only one kind of vice, because there is only one kind of virtue,²⁰ and finally all those whose "rudeness" considers any injury a complete denial of "the infinite personality" (§ 96R). The last example might be an allusion to the practice of dueling, but it is perhaps more relevant that Hegel's phrase about "the rudeness of the formal honor, which places one's infinite personality in each injury" is almost identical with the expression he uses to describe the behavior of nation-states with regard to one another in § 334: "a state can place its infinity and honor in each of its singular elements." As we will see, the international (dis-)order is, in Hegel's interpretation, even more primitive than dueling gentlemen and primitive legislations.

Transition (§ 97)

Specifying what he already stated in §§ 82 and 92, Hegel concludes his analysis of crime by characterizing it as an external reality that is negative or "null" (*nichtig*) in itself. As the externalization of a will that negates the very will of which it is an instance, crime is an inner contradiction. As a conceptual nullity, it must reveal, i.e., realize and manifest, itself. The violating will must itself be negated; the concept of free will ought to overcome *and does necessarily* overcome its negation by annulling its annulment. However, the

¹⁹ Hegel adds "religious coercion" (*Religionszwang*), but in Ilt 3, p. 303, he says that it belongs to another, namely, the moral, sphere.

²⁰ Cf. Wood's explanatory notes 1 and 2 on p. 418 of his *Ethical Thought*.

question remains: How can the positive fact of a violating will be annulled?

The Overcoming of Crime (§§ 98-101)

The negation through which a crime is overcome is, more positively formulated, the restoration of the damaged right. A simple indemnity is not enough because the crime not only caused damage, but also denied some particular right, thereby dishonoring the victim. Yet neither the will of the victim nor that of the criminal can be directly coerced, as section 91 has established. The only way to annul the violation is through the external *Dasein* in which the criminal's will is materialized, i.e., through his property (including his body and life). While restitution is a necessary first step, it is, however, insufficient (§ 98).²¹

The positive existence of the crime lies exclusively in the criminal will. The universal will or right as it is *an sich* is inviolable, even in the criminal himself, but its distortion in his particular will must be effectively negated. If this were not accomplished, right, will, reason, and spirit would be powerless; there would be no law and order among human beings because arbitrariness would reign. Right that has been injured must be reestablished by suppressing the empirical realization of the criminal will itself, not only the damage caused by it. Crime demands restoration (*Wiederherstellung*, § 99) and retaliation (*Wiedervergeltung*, § 101).

²¹ If punishment coincided with the mere "compensation for damage" (§ 98), there would be no *Aufhebung* (which assumes a double negation), but only a return to the former state. Restitution or compensation does not annul the negation of the right-ly aspect, but only its external being-there. Cf. Ilt 3, p. 308 and 4, p. 282. In "Die Aktualität des Hegelschen Strafbegriffs" (in Eric Heintel [ed.], *Philosophische Elemente der Tradition des politischen Denkens*, Wien: Oldenbourg, 1979, pp. 199-233), Wolfgang Schild clearly shows that compensation cannot replace the annulment of the wrongdoing will. The demands of freedom itself, in addition to the human desire for happiness or well-being, are denied by the criminal will and therewith the basis of a rightful state. If this *state* of freedom and right is not restored, the injustice of the state of nature is accepted as a basis, which in fact cannot be a basis for right, but only for war (the "right" of the strongest or the smartest). Hegel's argument further develops the Kantian distinctions between *happiness* and *freedom*, *well-being* (*Wohl*) and *right* (*Recht*), *damage* (*Übel*) and *injustice* (*Unrecht*). See also Schild's "Der Strafrechtsdogmatische Begriff der Zurechnung in der Rechtsphilosophie Hegels," in *Zeitschrift für philosophischen Forschung* 35 (1981): 445-476.

The damage that must be inflicted on the criminal to redress the attacked right has nothing to do with anger or revenge, but only with the demands of right as such, i.e., of free will as constitutive for every human being, whether criminal or law-abiding. It is therefore a demand of the criminal's own free will, as the universal ground of personal rights, that right be vindicated and actualized against his own criminal actions. He himself (i.e., the *free* or universal, not arbitrary, will in him) demands justice against himself (i.e., against the particular will that made him commit the crime). To do justice to a crime by damaging the criminal's property is thus to realize his own right.²² Failing to punish a crime would not only show contempt for freedom and right, but also disrespect for the criminal (§ 100). Just punishment, on the contrary, preserves his honor (§ 132R).

To convince his readers, Hegel employs the following argument. As a human — i.e., rational — being, a criminal, like any other human actor, acts according to specific rules (Kant's "maxims") through which he applies the general principles of human rationality to the circumstances of his life. These rules are his specific ways of being human or rational. As long as he is not mad or otherwise subhuman, the criminal must therefore be treated as a rational and autonomous legislator of his own actions.²³ If he steals, this must mean that his legislation permits the appropriation of others' property; if he murders, his law states that killing is a justified concretization of the demands of freedom. If we now apply the criminal's own laws to himself, we honor him as an autonomous legislator (§ 100 & R).

The latter argument is presented in § 100 as an explanation of one element of the first argument, namely, the statement that the restoration of right is a demand of the criminal's — and each

²² Cf. also §§ 140R (pp. 127 and 136), 220, and 132R (pp. 118-119).

²³ In order not to degrade criminals to the level of animals, children, or madmen, we must take their being *rational* seriously. Cf. Hom 246 (§ 72) and GrI 140R (pp. 127-128): "When the side of the good, and therewith the determination of someone's evil action as evil, is separated and not imputed to him, one does not treat him according to the honor of his concept." Hegel herein agrees with Kant's conception of the *jus talionis* as "the only idea that can determine *a priori*" what punishment should be given (Ak VI, p. 363). Cf. Ak VI, p. 323: "Only the right of retaliation (*jus talionis*) can indicate the quality and quantity of punishment in a determinate way: [. . .] the verdict of pure and rigorous justice."

human's — (abstract universal) will itself. However, the two arguments are different. That the criminal has arbitrarily chosen a law that must then also be applied to him is a parody of the idea that right (the law of the universal will) is inviolable and must be applied not only against all injuries but also against all wrong wills (and therefore also against all wrong laws and legislation). It seems to me that, pace Hegel, the criminal's self-regulation must *not* be respected but condemned and despised in the name of a correct particularization of the categorical imperative that he denied. To "honor" an arbitrary and irrational semblance of right is a sign of contempt, not a sign of respect for the merely "formal rationality" of the demands that lie in the criminal's own will.

Hegel repeats the second argument in all the texts and courses we possess from Enc A 414 and Homeyer's course (1818-19) to Griesheim's notes (1824-25) and Enc BC 500.²⁴ At times he seems to hint at its fundamental difference from the first argument,²⁵ but he always presents it as valid, although it contradicts the basic principle of his entire *Rechtsphilosophie*, according to which no right can in the end be justified by an appeal to human decisions or choices, but only by reason or free will itself, which are constitutive for human subjectivity and are therefore inviolable and immune to manipulation or distortion. Hegel's conclusion that it is "permissible" (*darf*) to "submit (*subsumieren*) the criminal to *his* right," because he is "*rational*" (§ 100) is a fallacious *ad hominem* argument. First, the word "right" in the expression "*his* right (*Recht*)" is equivalent to *Unrecht*, the contrary of right (e.g., the "right" to murder, if you like). Second, the rationality of the criminal, far from being realized, is betrayed in the criminal's self-determination; in any case, why should the constitutive rationality of being human (and thus potentially rational in concrete thoughts and actions) create a right to respond *irrationally* to *irrational* concretizations of reason, freedom, and right? Third, respect for someone who tries to destroy the rationality and basic right of others and himself is *not* shown by identifying that person with his irrational behavior, which is then imitated in actions against *his* rights. On

²⁴ Ilt 1, pp. 154-157 and 276-277; 2, pp. 359, 365, 367, and 369; 3, pp. 314-319; 4, pp. 280-281 and 289-291.

²⁵ For example, Ilt 3, p. 34.

the contrary, the irrationality of his behavior must be shown by concretizing his and others' right (e.g., the right not to be murdered) even with regard to himself and by helping him to (re)discover and embrace the truth of right. Retaliation cannot be justified by any appeal to the crooked rules of unjust people, but only in the name of justice itself. Fortunately, Hegel does not use his second argument to deduce other theses. Apparently, he was fascinated by it, perhaps because it seems to illustrate the idea that the rational will necessarily demands and actualizes its right against denials, even in and through the will of the criminal. Nonetheless, he should not have weakened the strong argument of § 100 by adding the other argument to it.

The first argument coheres with Hegel's general theory. If right is not at anyone's disposal, criminals condemn themselves by willfully committing injustice. To negate their negation is a demand of their own basic will and right.²⁶



While right's restoration (*Wiederherstellung*) demands retaliation (*Wiedervergeltung*, § 101), Hegel distinguishes this from the *lex talionis* ("an eye for an eye," etc.), because he interprets the latter in an all too literal sense. Using the remarks of § 96 about the quantitative and qualitative determinations of specific crimes and the definition of "value" (*Wert*) as universal property in §§ 63 and 98, he insists in § 101 on the limits of all punishment: it should not exceed the measures of the injury committed by the crime. The principle for punishment lies in its equality with the criminal injury,²⁷ but how this is to be translated into concrete equality of value cannot be determined by philosophy. This is a question for the *Verstand*, which must weigh all circumstances and aspects of the case. We cannot expect a perfect accuracy in this domain because there are too many contingent factors that escape calculation. "The qualitative and quantitative nature of the crime and its cancellation belongs to the sphere of exteriority, in which no

²⁶ See the summaries of the main argument in Wa 52 (lines 232-236) and 55 (lines 352-355).

²⁷ See also Ilt 4, p. 283: "Punishment and crime appear in their external shape as different, although they internally have this [...] substantial identity. The distinction is only a distinction in form."

absolute determination is in any way possible" (§ 101R; see also §§ 115R, 118R, 120R, 132R, 214 & R).

The concept of equality has created many problems in the theory of punishment. It is "very important" (*von der höchsten Wichtigkeit*) to determine how much harm the criminal must suffer to compensate for the harm done by his injury, but (1) the equality of the two *harms* is only an expression of the essential claim that violated right must be restored, and (2) the question of equality is an empirical question that cannot be definitively resolved. The *Verstand* must do what it can to determine as adequately as possible the precise measure of the punishment. Without it criminal justice would be impossible, but its endeavors can only be approximative. This imperfection is a consequence of the empirical character of right, which was already signaled in the Introduction (§ 3) and exemplified in questions of property (§ 49), where "equality" was characterized as "the abstract identity of the *Verstand*, to which reflecting thought — and thus spiritual mediocrity — clings, when it encounters the relation between unity and difference" (§ 49R). *Verstand* plays a necessary role in the entire judiciary system²⁸ but it should not replace the essential issue with empirical questions about the appearance of right.

Other Theories of Criminal Law (Remarks on §§ 99-101)

The core of Hegel's theory of punishment is a concept, and "only the very concept must contain the basic principle for the particular. The determination of this concept is [. . .] the necessary connection according to which the crime, as in itself a null will, [. . .] contains its annulment — which appears as punishment" (§ 101R). All other theories, however, whether focusing on prevention, deterrence, amelioration of the criminal, or social utility, concentrate on appearances, not on the essence or concept of right and justice. Because they are superficial, they do not recognize the difference between injustice (*Unrecht*) and damage (or evil in the sense of *Übel*). Following Kant, Hegel distinguishes *Recht* (right) from *Wohl* (well-being) and *Unrecht* (injustice) from *Übel* (adversity, harm). The question of right and un-right is more

²⁸ See §§ 211-214, especially 212R and 214 & R.

fundamental than questions of well-being and harm. An analysis of crime and punishment must therefore treat the latter as dependent on the former, not the other way around. Theories that start from empirical considerations of harm and utility not only miss the point, they also forget that criminals and victims are free and rational persons. Forgetting the demands of justice, they treat crimes as natural disasters and criminals as irresponsible animals (§ 100R). Fascinated by all sorts of psychological influences and motivations, they do not recognize that the essence of the will, far from being an empirical factor, is free with regard to drives and inclinations.²⁹

Hegel does not deny that empirical factors and circumstances play an important role in the occurrence of criminality and therefore must also play an important role in judgments and punishments, but he insists that these elements form the appearance (*Erscheinung*) of an essence (*Wesen*) of which he gave the concept. His theory offers a conceptual justification of "the general sentiment of peoples and individuals [. . . who affirm] that crime *deserves* punishment and that *the criminal must undergo what he has done*" (§ 101R). Sarcastically, he calls it amazing that "the customary science," which always borrows its definitions from the general representations of common sense, in this case has not followed the general opinion of past and present times (§ 101R). The following quotation from course notes formulates his conclusion:

All these considerations about amelioration, deterrence, etc. are important, but punishment must primarily maintain the just equivalence; punishment as punishment must not be given up; only the mode of punishment can be modified so that those goals

²⁹ Cf. Wa 54-55. In his excellent article "Hegel's Idea of Punishment," in *Journal of the History of Philosophy* 14 (1976): 169-182, Peter G. Stillman gives an elaborate account of the disrespectful and unjust aspects of liberal theories that, in fact, are damaging to criminals by robbing them of self-esteem and freedom of movement or by declaring them patients and imprisoning them instead of giving them their "due." Hegel's theory of punishment has become the subject of many publications. In addition to the ones mentioned in previous notes, see O.K. Flechtheim, *Hegels Strafrechtstheorie* (Berlin: DeGruyter, second edition, 1975); Igor Primoratz, *Banquos Geist: Hegels Theorie der Strafe* (Bonn: Bouvier, 1986), which includes a useful bibliography; Mark Tunick, *Hegels Political Philosophy: Interpreting the Practice of Legal Punishment* (Princeton: Princeton University Press, 1992); Kurt Seelmann, *Anerkennungsverlust und Selbstsubsumtion: Hegels Strafrechtstheorien* (Freiburg: Alber, 1995); and Georg Mohr, "Unrecht und Strafe (§§ 82-104)," in *Sieph, Grundl.*, pp. 95-124.

[too] are reached and (that) the evil in the interiority of the [criminal's] will is annihilated (Ilt 4, 554).

Revenge and Primitive Justice (§§ 102-103)

Who must punish the criminal? This is the task of any will that can execute the essential demand that has been deduced from the concept of crime. Such a will is always the particular will of a singular subject or committee. If people live in an environment without political institutions, either isolated individuals or families must do justice to the criminal through an act of retribution. However, individual revenge or retaliation by a family is a *form* of action that does not quite correspond to the *content* demanded by justice. Indeed, the particular will of the criminal, as concretized in its attack on the right of the universal will, must be annulled by another particular will, but this must act in the name of and as an actualization of the universal will itself. It must therefore coincide with the universal will. But how can this be the case if revenge is an affair of singular persons with their own particular interests? Who guarantees that the latter do not prevail over the interests of right and justice?

Two objections against individual revenge are valid: (1) the avenger may or may not do what the universal will demands, and (2) if the avenger acts, his personal interests will have too much influence on his retaliation. If his particular will exceeds the demands of universal justice, he commits a new injustice, for did we not define injustice as the negation of the universal will by a particular will? The retaliation itself then calls for a new act of revenge, and so on, without end. Instead of justice, revenge produces the pseudo-universality of endless contradictions between particular wills (§ 102).

As in §§ 96R and 334, Hegel here characterizes the particularism of a will that takes advantage of right's demands to pursue its own particular interest as a subject "that places *its infinity* in any injury that occurs."³⁰ In § 96R, Hegel writes, it "places the infinite personality in any injury" and, in § 334, a singular state "can place

³⁰ That the judiciary system, which Hegel considers a part of civil society, in principle (*an sich*) is already present in § 103, is made explicit in § 220.

its infinity and honor in any of its singularities." On the first as well as the last level of objective spirit, even the subjects engaged in the realization of justice are continually in danger of preferring their own particular interests over the universal interest of right.

How can this deficiency of revenge be remedied? The answer is contained in the preceding analysis. The executor of justice can only be found in a particular will that does not will anything other than the actualization of the universal will against all forms of injustice. Only such a will acts (1) with necessity and (2) out of a universal motivation.

Though Hegel does not pronounce the word, he has thus, in principle, deduced the figure of the judge. As we will see, the conditions for the existence of a subject whose particular interests are identical with the universal demands of right are twofold: it must (1) submit its particular interests to the demands of the universal will, and (2) have the *power* to execute these demands in the name of all concerned. The first condition introduces us into the dimension of morality (§ 103), while the second points toward the judiciary part of the chapter on ethicality (§§ 209-229).³¹ The realization of the *Sollen* that permeates the entire dimension of Abstract Right is thus shown to depend on two other dimensions: *Moralität* and *Sittlichkeit*. The three parts of Hegel's practical philosophy, i.e., right, morality, and ethical life, are thus linked to one another by the (still half-hidden) figure of the *Judge*, who thereby acquires a pivotal role in the system. As we will see, the Judge emerges at three points in Hegel's book:

1. as postulated in the transition from Right to Morality and Ethicality (§§ 103-104);
2. as a central figure of Civil Society (§§ 209-229); and
3. as the final figure at the end of the *Rechtsphilosophie*, in the form of the judgment of world history about humanity as a whole (§§ 341-352).

It would, however, be an exaggeration to say that the figure of the Judge dominates the entire *Rechtsphilosophie*, because the role of the State is at least equally important. Anticipating one of my conclusions, I would like to suggest, however, that Hegel's vision of

³¹ See pp. 316-318 and 455-459.

human praxis is an attempt to understand its pattern as a combination of sovereign unity on the national level and judgmental division on the universal level of humanity.

The Contingency of Abstract Right

The demand (*Forderung*) that right be guaranteed by a morally just will was already expressed in the *Sollen* of the claims formulated in §§ 86 and 89, but its explicit necessity is not “produced” (*hervorgegangen*) until § 103. Even in § 81R and § 82 this necessity is implicit, where Hegel emphasizes the contingent (*zufällig*) character of the agreement between right as such (the universal will) and the particular wills of the individuals who ought to realize it. How do we know this contingency?

Any act of injustice shows that agreement between the singular (moment), the particular (moment), and the universal (moment of) will is not necessary. Driven by its own particular interests, an individual can disrespect right. But can we not discover this kind of contingency by other means? Could not the same contingency exist in a perfectly just world? Does not the awareness of right’s normativity (its *Sollen* or *Forderung*) suffice to understand that we ought to *and can*, though we do not necessarily, act in accord with it? If so, Hegel could have deduced the contingency of the agreement and the concept of morality directly from the structure of abstract right, without passing through injustice, crime, and punishment. The “deduction” of these negations would then have demanded a principle other than the factual occurrence of wrongs.

However, Hegel maintains that the different moments of the concept (*in casu* the concept of right) must posit (*setzen*) and manifest their difference in the real existence of a differentiated reality. The “logical higher reality” that rules the universe (§ 81R) *necessarily opposes* the universal and the particular moments of the will, thus originating a world in which injustice, though irrational and bad, is an inevitable element. The non-necessity of the demanded agreement *must* manifest itself in the form of an existing (though not final) contradiction. The immediate unity of the will’s moments, which precedes their differentiation, *must* unfold their non-identity, which then must be overcome through a second negation that establishes real justice. The difference between the

first, immediate identity and the result of the double negation is the difference between right's immediate appearance (*Erscheinung*), whose immediacy can easily turn into a semblance (*Schein*), and its mediated appearance, which, having overcome its perversions, guarantees its essence (§§ 82-83). Injustice is thus a necessary moment in the actualization of right, but it cannot do without morality. If Hegel's analysis is correct, he has indeed deduced the necessity of right's contrary as a condition for the possibility of a fully just world (which then necessarily implies injustice).

Hegel's analysis of injustice, whose basic structure has now been explained will be developed further on all other levels: at the end of "Morality" he "deduces" a necessary contradiction between (the will as) conscience and (the will as) the good; in the chapter on the family, injustice takes the form of a sin against love; in civil society, injustice is treated as an element of the concrete judiciary system and social security; and at the end of "The State" war is presented as a necessary conflict between national particularities, on the one hand, and world history, on the other. All forms of evil and suffering have a necessary, and to that extent justified, place within the fabric of the universe. The totality is ultimately justified; it is the logically correct unfolding of the Absolute. But the Absolute's self-determination needs injustice and evil as the deepest point of return to itself.

CHAPTER SIX

MORALITY

The composition of the chapter on "morality" (§§ 105-140) has puzzled the best interpreters of the *Grundlinien*.¹ The first peculiarity that strikes the reader is its presentation of "morality" as "a standpoint."² Is not Hegel's *Rechtsphilosophie* part of a treatise that shows how different moments or "levels" (*Stufen*) of the spirit, which can be distinguished *in abstracto*, form one systematic totality? A "standpoint," however, seems to belong to a history or a phenomenology of the spirit's "figures" (*Gestalten*). Hegel's use of *Standpunkt* in this context has misled Ilting and others to think that Hegel's book of 1820 presents a phenomenology of right rather than a treatise on the ideal unfolding of the spirit's objective actuality.³

¹ Some outstanding studies on Hegel's conception of morality are the following: Heinz Heimsoeth, "Politik und Moral in Hegels Geschichtsphilosophie," in his *Studien zur Philosophiegeschichte* (Köln: Kölner Universitäts-Verlag, 1961), pp. 22-42; Joachim Ritter, "Moralität und Sittlichkeit: Zu Hegels Auseinandersetzung mit der Kantischen Ethik," in *Materialien* 2, pp. 217-246; Claudio Cesa, "Doveri universali e doveri di stato: Considerazioni sull'etica di Hegel," in *Rivista di Filosofia* 1977: 30-48; Gabriel Amengual, "Moralität als Recht des subjektiven Willens," in *Hegel-Jahrbuch* (1987): 207-215; "Natürlicher Wille und moralischer Wille im Moralitätskapitel der Rechtsphilosophie Hegels," in *Hegel-Jahrbuch* (1990): 225-234; and "El sentimiento moral en Hegel," in *Taula: Quaderns de Pensament* 17-18 (1992): 27-44; Francesca Menegoni, *Moralità e morale in Hegel* (Padova: Liviana, 1982), and "La morale," in Claudio Cesa (ed.), *Guida a Hegel* (Bari: Laterza, 1997), pp. 123-155; Ludwig Siep, "Was heißt 'Aufhebung der Moralität in Sittlichkeit' in Hegels Rechtsphilosophie?" in *Siep, Prakt. Phil.*, pp. 217-239; Christoph Jermann, "Die Moralität" in *Anspruch und Leistung*, pp. 101-144.

² In *Siep, Grundl.*, p. 129, Francesca Menegoni emphasizes the frequent use of the word "standpoint" in GrI 104-112, 135R, 137 & R, but rightly does not follow Ilting's thesis (see next note) that the *Grundlinien* offers a phenomenology of right rather than a systematic treatise of the spirit's free world.

³ Karl Heinz Ilting, "Rechtsphilosophie als Phänomenologie," in *Theorie*, pp. 225-254. In his contribution, "The Dialectic of Civil Society," to *Pelczynski, State*, Ilting contends that Hegel "explains how the free self-consciousness of man may come to understand the institution of law, morality, family, civil society, and state as conditions of his freedom" (p. 212). With regard to what he sees as the misunderstanding that Hegel would present us with a "logical, pantheistic

As I have tried to show in Chapter Two, the content of the *Grundlinien* is an integral part of Hegel's systematic philosophy of spirit. However, since the spirit has integrated its preceding revelations as organic moments of its present actuality, such moments can be isolated and represented as characteristic positions, which then can be imagined as independent views or standpoints. In order to transform a moment of the systematic totality into a historical or possible position, it is sufficient to present it as a ruling principle that refuses to be a subordinate element in an encompassing totality. Morality is an essential element of "right" in its broadest sense; but when it is taken to be the overarching perspective for all objective expressions of the spirit, it constitutes a *moralistic* conception of the world (*moralische Weltanschauung*⁴), in which other elements (right, politics, art, religion, science, and so on) are subordinated to the moral point of view.

Such a conception, which is also a way of life, dissociates the moral element from the ethical totality, in which it should be integrated. When the ethical totality has fallen apart or when people live in an uncivilized state close to the Hobbesian state of nature, the moral point of view might be the only one that can still guarantee some level of decency. This is the reason various forms of moralism surge in situations of political disarray. Socrates and Plato, for example, lived in a time of ethical decadence: the *polis* had fallen apart and the mores had been undermined by the sophists. Because the political and cultural institutions no longer concretized the demands of true freedom and justice, they could no longer appeal to collective and objective actualizations of the spirit. Socrates discovered the "principle of subjectivity" in the individual's own conscience,⁵ while Plato, in an ultimate effort, tried to stop the threatening anarchy by constructing an authoritarian constitution that would channel the subjective wants of the

mysticism," Ilting argues that "where he [Hegel] does use metaphysical conceptual language, we can translate his formulations into ordinary conceptual terms so that his way of speaking acquires a readily accessible meaning [. . .] Indeed there can be no doubt that this is the intended meaning of these often profoundly obscure formulations" (p. 225).

⁴ Cf. Phän., GW 9, pp. 323 ff., and *Le jeune Hegel*.

⁵ GrI 138R & Z, 279; *Philosophie der Geschichte*, Su 12, pp. 326-330; *Geschichte der Philosophie*, Su 18, pp. 442-446 and 469-472. See below, pp. 321-323.

citizens.⁶ Another example is the moral philosophy of the Stoics, who, in an epoch of cosmopolitanism without clear ethical allegiances, sought refuge in personal virtue and wisdom.⁷

Hegel himself lived through similar times. In his youth, he deplored the decadence of the German *Reich* contrasting it with an idealized picture of the free people of Greece. He had seen how the French Revolution overturned the *Ancien Régime* and how, after the turmoil of the *Terreur*, Napoleon, like a modern Theseus, violently established a new European order.⁸ Although Napoleon was defeated, the new world could not be undone, and the struggle for its satisfactory organization continued. Over against the restoration, whose reactionary power was particularly strong in Austria and Prussia, a strong movement among intellectuals pushed for a more democratic politics. Hegel, on the other hand, as a new Plato, sketched a middle course while trying not to violate the principle of individual subjectivity. Moral life indeed needed to be renewed, but this could only be done if the objective (political, legal, social, and economic) order acquired a rational structure.

A second difficulty with Hegel's chapter on morality lies in the diversity of issues treated in its 36 sections and the lack of a sustained central question. One of the issues he treats is a complex of moral problems analyzed in Kant's philosophy. Hegel not only mentions Kant explicitly (e.g., in § 135R), but he accepts much of the latter's approach and terminology when concentrating on the tension between the good (*das Gute*), right (*Recht*), and well-being (*Wohl*) in relation to the will of moral subjects. However, when focusing on conscience (*Gewissen*), he is more concerned with Jacobi, Friedrich Schlegel, Novalis, and other representatives of the Romantic movement.⁹

⁶ GrI 46R, 185R, 206R, 299R, and my *Platonic Transformations: With and After Hegel, Heidegger, and Levinas* (New York: Rowman & Littlefield, 1997), pp. 47-54.

⁷ *Geschichte der Philosophie*, Su 18, pp. 287-296.

⁸ On young Hegel's veneration of ancient Greece, cf. *Le jeune Hegel*, pp. 15 ff.; on his admiration for Napoleon, see Shlomo Avineri, *Hegel's Theory of the Modern State* (Cambridge: Cambridge University Press, 1972), pp. 63 and 66-72; Jacques D'Hondt, "Hegel et Napoléon," in *Verfassungsgeschichte*, pp. 37-68; Norbert Waszek, "Action politique et philosophie spéculative: de Bonaparte à Hegel," in *Annalen der internationalen Gesellschaft für dialektische Philosophie* (Societas Hegeliana) 7 (1990): 54-58; and *Briefe I*, pp. 119-120, 185, and 218; II, pp. 28-29 and 86-87.

⁹ See below pp. 374ff.

For a correct understanding of the first part of the chapter (§§ 106-118), which concentrates on the definitions of human action, responsibility, and imputation, it is necessary to see how Hegel's work in many respects continues the tradition of the scholastic treatise *De actu humano*, whose sources lie in Aristotle's *Ethics*.¹⁰ Very few interpreters of Hegel's work pay attention to the fact that Hegel, like Kant, was educated in a climate still dominated by the handbooks of eighteenth-century scholasticism. His study of the great classics Plato, Aristotle, Spinoza, and Montesquieu, and his enthusiasm for the revolutionary thinkers Lessing, Rousseau, Kant, Fichte, and Schelling did not cut him off from the scholastic tradition. Its influence is not only visible in his logic; his philosophy of subjective and objective spirit is likewise marked by an attempt to retrieve the central topics of the traditional psychology and practical philosophy or "natural law."¹¹ Thorough studies are needed to determine the extent to which Hegel's entire philosophy can be understood as a radical transformation of the philosophy that dominated the German scene at the end of the eighteenth century. This would considerably rectify the unhistorical but still popular picture of Hegel's work emerging from an exclusive discussion with Kant, Fichte, and Schelling.

A third difficulty with Hegel's chapter on morality (§§ 105-140) is that many sections do not seem to answer the normal questions of moral philosophy. To solve this difficulty, we must discover what keeps Hegel from meeting our expectations. Because Hegel's encyclopedic system does not seem to offer any other place for moral philosophy besides the second chapter of his philosophy of "right" or "objective spirit," entitled "Morality," the reader

¹⁰ *Nicomachean Ethics* III, 1-5 (1109b30-1115a6). Cf. Aquinas, *Summa Theologiae* I^a II^{ae}, qu. 6-16; Christian Wolff, *Philosophia practica universalis*, Pars I^a, caput I, §§ 12-14.

¹¹ A thorough study of the way Hegel retrieved the eighteenth-century scholastic tradition in ethics and natural law theory is an urgent desideratum of Hegel scholarship. According to Marcel Thomann's introduction to Wolff's *Jus Naturae* (New York: Olms, 1972, vol. 1, pp. xi ff.), the practical philosophy of Wolff and his followers dominated the German, Austrian, and French universities during the eighteenth century. In any case, there are striking parallels between the issues listed in Wolff's *Philosophia Practica Universalis* and Hegel's *Grundlinien*.

With regard to Hegel's knowledge and use of the psychological tradition, Michael J. Petry gives a host of references in *Hegel's Philosophy of Subject Spirit* (see above Chapter Two, note 2).

immediately expects to find in that chapter answers to questions like: "How do human beings become good or bad?" "How must we behave?" "What are our duties?" "What are the main virtues and vices?" and so forth. Some of these questions are touched upon, but none are really answered. Not only does Hegel treat such questions in an extremely formal and abstract way, he also seems more interested in questions of right rather than morality.

As I have argued elsewhere,¹² Hegel's moral philosophy cannot be found in any single chapter of his work because it coincides with one aspect of his entire philosophy of spirit. Though not developed explicitly, Hegel's moral philosophy is implied in the normative moment of the spirit. It can be reconstructed through an analysis of the imperative character (the *Sollen*) that accompanies all his thoughts about the essence and the idea of human spirit, reason, and freedom. As we have seen, Hegel's definition of humanity is spiritual *self-actualization*, which is not a *natural* necessity but a spiritual task. The *Sollen* that is implied in this task contains an entire ethics, including all the basic duties of human agents.

For an understanding of the basic principles of Hegel's moral theory, three parts of his system are especially important: (1) the philosophy of subjective practical spirit (Enc A 386-399, GrI 3-33, Enc BC 467-480/481), (2) his introduction to *Sittlichkeit* (Enc A 430-436, GrI 142-156, Enc BC 513-517), and (3) his chapter on morality (Enc A 416-429, GrI 105-140, Enc BC 503-512). In the philosophy of subjective spirit, Hegel analyzes how an individual will overcomes the opposition between universality (the concept of the will) and particularity (the differentiation of the universal will in drives and inclinations) in the will to concrete freedom (GrI 3-33, cf. above Chapter Three). When Hegel clarifies the concept of *Sittlichkeit*, he shows that the content of our duties and virtues follows from our participation in *well-ordered* communities (family, civil society, nation, state; GrI 142 ff.). The chapter on morality (GrI 105-140), however, is written from a perspective that is limited by two considerations: (a) it focuses on the *formal* aspects of the moral will (in this respect it continues the analysis of his psychology in Enc A 386-399 and GrI 3-30), and (b) it treats moral

¹² *Selbsterkenntnis*, pp. 46 ff.

questions only insofar as they concern “right,” i.e., insofar as the objective realization of an individual’s moral will deserves respect and protection. This last aspect explains why the individual will, in its relation to obligations, permissions, conscience, and the good, is approached as a subject of rights. The central question of “morality” is not so much “What ought I to do?” but rather “To what extent am I allowed to do as I want to?” In the *Grundlinien*, morality is treated as a form of right — albeit a very formal and abstract one — but it differs from the right of personality and property in that it is the right of human interiority: my individual intentions, my plans, and my conscience must be respected insofar as they are instances of reason and free will — even if I choose evil. Do not respect this evil, but punish me by annihilating my crime! If you do not, you treat me as a mere animal (§§ 132, 137, and 140).

However, even with these explanations it is difficult to see the unity of Hegel’s chapter on morality. He wanted to say too much too quickly about too many subjects. The reader can, however, be helped by first studying the version of “Morality” that is found in the *Encyclopedia* of 1817: there the structure of Hegel’s treatment is rather clear, as it concentrates on one central question.¹³

Morality in Enc (1817) §§ 415-429

Enc A 415:

The reality of right, which the personal will gives to itself in an immediate mode, has developed itself as something contingent. It has become clear that right is mediated through subjective choice (*Willkür*) and that *Willkür* is an essential moment, which, on the one hand, is the power over right, while, on the other hand, in its abstraction for itself, it is a nothingness (ein *Nichtiges*), having truth and reality only in identity with the universal will. *Morality*.

B. Morality

Enc A 416:

Through the judgment (*Urteil*) of the free personality, the *particularity* of the person becomes an essential moment. On the one

¹³ Cf. Francesca Menegoni, *Lineamenti per una teoria dell’azione nella Filosofia dello spirito*, in F. Biasutti et al. (eds.), *Filosofia et scienze filosofiche nell’ ‘Encyclopedia’ Hegeliana del 1817* (Trento: Verifiche, 1995), pp. 455-562.

hand, the subjective *interest* and the *particular well-being* (*Wohl*) thereby become [an/the] end; on the other hand, the universal will, or the will in and for itself, has its actuality through subjectivity, insofar as this has the *disposition* (*Gesinnung*), the insight (*Einsicht*), and the intention (*Absicht*) of the good.

Enc A 417:

The moral standpoint is therefore the *reflexive judgment* of freedom, or the *relation* in which the personal subjectivity posits itself as absolutely independent, and therewith expels the moments of the will as independent extremes: the *universal rational will* [on one side] and an *external independent* world [on the other]. The subjectivity is their middle; it is as much immediately identical with them, as it, being independent, posits itself with them and them among themselves into a merely *relative* relation.

Enc A 418:

The universal conclusion (*Schluß*) is that the moral subject, as the unity for itself of the opposition that is equally independent in the extremes, is this inner contradiction [. . .].

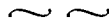
Section 415 is the last section of the Encyclopedic chapter on right (Enc A 402-415), which runs parallel to the chapter on “abstract right” in the *Grundlinien*. Hegel summarizes the content of the preceding chapter and the conclusion of its analyses. Because right as such is a purely formal concept, its actualization depends on the immediate choice of those who are involved. Though aware of the universal demands of right, they are independent insofar as they can obey, ignore, or disobey these demands.

If the actuality of right depends on singular wills — a truth that becomes obvious when injustices are committed — the basic issue is how singular wills can be united with the universal will as expressed in rights. Right demands this identity. How is it constituted and what are the conditions of its realization?

Within the horizon of (abstract) right, this question is still a formal one; however, the general question of which contents must be realized by an individual will that is one with the universal will cannot be avoided. This will be the subject of the chapter on *Sittlichkeit*. The chapter on morality continues to concentrate on formal questions, but instead of focusing on property as the external realization of free will, it will analyze the realization of freedom *pro foro interno*, in the interiority of a singular will that wills what the universal will wills.

For Hegel, "morality," like "right" (in its restricted sense of "abstract right"), is a formal element of the concrete ethical reality in which we live. It cannot be opposed to *Sittlichkeit*, because it is only a moment, not an independent domain or realm or world vision. In Enc A 415, "morality" or "the moral will" (i.e., the moreal aspect or element of the will) is defined as the relation between subjective *Willkür* and the universal will (i.e., the concept of will), which up to this point has revealed itself as freedom and (abstract) right, but has yet to reveal and realize itself as the (concrete) good (including its full ethical development).

This definition leaves open the question of whether the moral will is good or bad. It can be both, and this indeterminacy is typical for its merely formal character. The singular will of a (good or bad) subject is free insofar as it is capable of self-determination through personal choice or decision.



Both right and morality have the structure of an *Urteil* (judgment). As I have explained in Chapter One, Hegel uses the logical category *Urteil* with an allusion to the *Ur-teilung* ("original partition" or "division") that is expressed in it to characterize relations that do not form unions. If such relations are exempted from all overarching syntheses and thus made independent, they separate the related terms and constitute a duality. When such a duality is absolutized, the relation is replaced by a dualism. The structure of the basic concept of (abstract) right (i.e., property) is characterized in Enc A 411 as emerging from the arbitrary *Urteil* through which a singular person (by grasping, forming, or signifying) makes something his own. In contrast with this basic positive "judgment," Hegel distinguishes two negative judgments in Enc A 412-413: the simply negative *Urteil* of the innocent form of *Unrecht* called "*unbefangen*" in GrI 412, and the infinite [negative] *Urteil* that occurs in crime (*Verbrechen*). In the *Grundlinien*, too, the role of the *Urteil* is mentioned, but it is emphasized less there than in the Encyclopedia of 1817. The triplet "positive judgment," "negative judgment," "infinite judgment" is used in GrI 53 to distinguish the acquisition, the use, and the exteriorization of property, while sections 85, 88, and 95 distinguish three kinds of *Unrecht* as negative, positive infinite, and negative infinite "judgments."

The negation contained in the various forms of wrong (Enc A 412-413) impedes a satisfactory synthesis of the terms involved: the universal will and the singular wills of the contracting parties do not coincide. The positive judgment expressed in property and contract and the negative judgment realized in *Unrecht* do not combine to form a true syllogism (*Schluß*). To form a syllogistic unity, "a third *Urteil*" is needed: the judgment of a will capable of annihilating the nullity of the injustice committed (Enc A 414). As we saw above in the explanation of § 103, this will is the will of a judge who not only knows what right (i.e., the universal will) demands, but whose will is also morally good enough to will and realize those demands.

Like abstract right, morality has a "judgmental" or "reflexive" structure (Enc A 416-417), but it is distinguished from right (1) insofar as it is internal, and (2) insofar as a singular will, in its relation to the universal will, is also a particular will, i.e., a will determined by needs, drives, inclinations, etc. While it is only implied in the *Encyclopedia*, Hegel states explicitly in GrI 37 (at the beginning of his chapter on abstract right) that the abstract concept of personality, which contains all the subordinate concepts of abstract right, does *not* involve the *particular* aspects of the will insofar as it is confined to the dimension of right. To be a person — and therefore to have a right to property — includes neither the specific "desires, needs, drives, contingent wishes, interests, usefulness or well-being (*Wohl*)" of the individuals involved, nor their particular insights, intentions, or motivations. The dimension of abstract right is restricted to the *formal* aspects of being a person, an owner, and a party in contracts, but tells us nothing about the specific *content* of the property owned or the contracts made. How much and what sort of things a person should own or exchange is here not the question; the issue is limited to the realization of personal freedom in general and as such. However, the moral dimension does concern the particular desires and interests of individuals. Indirectly, their particular will is involved in right, insofar as the various kinds of wrong or "unright" (*Unrecht*) originate in it, but as a necessary positive moment of freedom's actualization (i.e., as the will of a judge who wills the universal will) the will's particularity belongs to an analysis of morality. "The universal will [. . .] has its actuality through subjectivity" (Enc A 416).

The word "subjectivity," typical of the moral dimension, has here replaced the word "personality," which was used for the basic concept of abstract or property right, while "the good" (*das Gute*) is used as the name for the universal will's actualization. The issue of the chapter on morality is, therefore, the relation between the free subject, with its particular interests, intentions, and motivations, and the good (i.e., the concept of the universal will that must be actualized).

Hegel translates Kant's distinction between the good (*das Gute*) and well-being (*das Wohl*) or happiness (*Glückseligkeit*)¹⁴ as the distinction between the subject's universal will (or practical reason) and the same subject's particular interests. A subject whose free will wills the good, also wills its particular well-being. However, the particular will encompasses more possibilities than the individual's well-being; it is, in the first place, the cognitive and volitive interiority, the "inner disposition (*Gesinnung*), [composed of] insight and intention" (Enc A 416). Individual freedom transcends the dimension of its immediate, as yet indeterminate, relation to external property by itself determining the particular reasons for its behavior.

The core of Hegel's analysis of morality, as presented in the *Encyclopedia*, is summarized in §§ 417-418.¹⁵ Hegel shows here that morality can be neither practiced nor understood as a self-contained, independent realm, because it would then be destroyed by its own, inherent contradictions. The analysis prepares the thesis that morality is only a moment of something else, a subordinate dimension within the realm of ethics (*Sittlichkeit*). The ethical totality, of which it is an element, saves it from its contradictions, but if it separates itself from that totality, it degenerates into immorality.

¹⁴ That *Wohl*, as the particularization of the good, is synonymous with *Glückseligkeit*, is expressed in Enc A 425: It is contingent "whether the subject finds its *Wohl* in it [scil. in the objectivity], and, more precisely (*näher*), whether the good subject becomes *happy* (*glücklich*) in it." In Enc C 505 (but not in B 505), Hegel makes the following distinction: happiness (*Glückseligkeit*) is distinct from well-being (*Wohl*) only insofar as the former is represented as an immediate *Dasein* as such, whereas the latter is represented as justified with regard to morality." See also Grl 183, 230, 255, and 337.

¹⁵ For a more elaborate explanation of the argument and the continuity between the three versions of the *Encyclopedia* (A 416-429; BC 503-512) with regard to morality, see *Hegels prakt. Phil.*, pp. 186-236.

To prove his thesis, Hegel starts from the hypothesis that morality is a self-contained realm. He presents this hypothesis as the "moral [or rather "moralistic"] standpoint" (§ 417), which adheres to a dualism that relates and separates but does not unify its terms. The "extremes" of the moralistic "judgment" are posited as "absolutely independent." They are (1) the rational or universal will (practical reason or the concept of free will) and (2) the external world in which the rational will must actualize itself (according to its rational demands as revealed in right but contradicted by "un-right"). How can these terms be reconciled, i.e., united, if they are absolutely independent? Indeed, they seem to be utterly opposed: the world does not seem to be good (i.e., it does not seem to obey the law of reason) and the good (the universal will) seems to hover above the real world. Hegel takes Kant's dialectic of *das Gute* and *das Wohl*¹⁶ further by insisting on their original unity as two moments (the universal and the particular moment) of one will.

In order to discover the unity of two related but distinct terms (e.g., the unity of the subject and the predicate of the *Urteil*), a third term is needed that has something in common with each. As a middle term, it mediates between the two terms that contradict one another, transforming them into complimentary elements of one and the same reality. The question then becomes: How can the world become the actuality of the universal will (the good)? Or: How can the good actualize itself as a world?

The moral standpoint answers this question by stating that it is the task of individual subjects to make the world good through good dispositions, good intentions, and good behavior. To check the validity of this answer, we must see whether singular subjects are actually capable of concretizing the good in the world. One fact at least supports this answer: the subject is identical with both terms, insofar as it (1) not only has a singular and particular will, but also has, or rather is, the universal, rational, and free will, and (2) is part of the world which must become good. However, this identity is only immediate: (1) the subject has not yet discovered how its own rational freedom (i.e., its practical reason or universal will) must differentiate itself in particular interests, or — in other words — it has not yet discovered how its many particular and

¹⁶ *Kritik der praktischen Vernunft*, Ak V, pp. 108-114.

conflicting interests can become the expression of its own free rationality or rational freedom; and (2) its participation in a concrete world by accomplishing a specific behavior is not yet the expression of the universal will's true actualization. The goal is a rational and free world of free and rational subjects, but this presupposes a successful mediation. As long as the subject, as *moral* subject, is only *related* to the two terms without having accomplished a mediation through which it itself becomes an integrated moment of a rational and free world, the subject, the good, and the world cannot form a unity. Together, they form an unsuccessful, inconclusive synthesis (*Schluß*). Since an opposition remains a contradiction (*Widerspruch*) so long as it is not integrated into a higher union, the moral subject is an inner contradiction: it sees itself opposed to the universal will and the world, both of which are also opposed to one another (§ 418). At the same time, however, the subject is also identical with the rational will and the external world, as already stated in § 417. As simultaneously identical (in an immediate mode) and divided by contradictions between itself and the two terms it must bring together, the moral subject is a dynamic tension, a drive, and an activity to overcome those contradictions; it tries to unify itself by unifying the universal will and the world with one another and with itself. The norm for this unification lies in the concept of freedom (i.e., the universal will). If the subject can shape the world according to the demands of reason, it will also unify itself, because it then mediates between itself as universal, rational, and free (i.e., as practical reason), and itself as worldly, external, empirical, and natural (i.e., as a bundle of drives and inclinations). Insofar as the subject's activity is intended as a realization of that goal, it is *action* (*Handlung*; §§ 418-419).

Enc A 418:

The universal conclusion in that the moral subject, as the unity for itself of the opposition, which is equally independent in the extremes, is this inner contradiction, and, as identity, is the activity and drive to overcome this contradiction, i.e., *to act* (*handeln*), to realize the end, and to make the world conform with the end.

Enc A 419:

Action (*Handlung*) is the absolute determination of the objectivity, as *selfless* over against the free subject, by the end of the subject. However, because this objectivity is also *independent*, it can distort

the individual's action and produce something different than that which lay in the action. Although every change, as posited through the activity of a subject, is the subject's *deed* (*Tat*), the individual does not recognize this deed therefore as its *action* (*Handlung*); it recognizes only that which lay in its *knowledge* and *will*, as *its own* — as its *liability* (*Schuld*) — because it counts for itself only as an absolute subjective will which is for itself.

Enc A 420:

However, this general transition, which action is, still contains multiple other relative identities: α) the *universal will as it is in and for itself* is the law and the substance in which the *immediate singularity* of the subject as well as the *external reality* are sublated. It is therefore the *absolute final end; the good in and for itself; the duty* for the subject, and *the ultimate end* of the world.

Enc A 421:

But β) *the good* contains in its concept, as universality of the *will*, the moment of reality, which lies, however, in the *singularity* (which is distinct from this universality), the in itself reflected subjectivity of the I and its self-determining *activity*. The subject *ought to (soll)* have *insight* into the *good*, make it its own *purpose* (*Absicht*), and produce it through its activity.

Enc A 422:

γ) The *good* is at first abstract-universal; but, as essential to the will, it is negative in itself and therefore *particular*. Therefore there is a *plurality* of goods and a *multitude of duties*, whose variety is mutually dialectical, bringing them into *conflict*.

Enc A 423:

They ought to concord with one another, because each, as duty and as good, is absolute, since they have the will as their essence. Because the action is the subject's activity, having singularity as its principle, the individual, likewise, *ought to know* the duties and kinds of good in their variety, as well as the many sides of the singular objectivity that is presupposed by the subject (i.e., of the concrete, multifaceted case [*Fall*]). Moreover, their mutual subordination ought to be known through true dialectic, which also should decide which singular [duty or good] or which combination [must be realized], with the exclusion of others or their absolute claims.

Enc A 424:

δ) For the subject as absolute for itself in its particularity, its *interest* and *well-being* ought to be an essential end and therefore a duty. At the same time, however, the particular interest *ought not* to be a moment in the end of the *good*, which is only the universal, not the particular will. Because of this independence, it is contingent upon whether they are in harmony. But they ought to be in harmony, because the subject, as singular and universal, is one identity in itself.

Enc A 425:

ε) This interior side ought to be united ("concluded") with the objectivity through the action, the activity of the subject. Since the objectivity, as the other independent extreme, constitutes a world of its own, however, it is contingent upon [1] whether it concords with the subjective ends, [2] whether the *good* realizes itself in it and *evil* — the end that is null in and for itself — is nullified in it, [3] whether the subject finds its well-being in it, and more precisely, [4] whether the *good* subject becomes *happy* and evil (*das Böse*) becomes unhappy. But the world *ought* to permit the achievement of the good action, to grant the good subject the satisfaction of its particular interest, to withhold it from the subject, and to nullify evil itself.

It is characteristic of the moral dimension that the acting subject is involved in a struggle with external and internal contradictions. If there is no other dimension in which the tensions can be overcome, the subject remains entangled in oppositions without being able to constitute a true, self-differentiated and self-integrated identity. So long as the ethical realm does not liberate the moral will from its formalism by offering a rational pattern for the concretization of the universal will, the subject is a *relative* identity.

A first indication of its failure lies in its inability to prevent all difference between its doing (*Tat*) and its action (*Handlung*). The subject is aware of a certain impotence because the external world, if it is not yet transformed into an ethical world, can pervert the best intentions by causing unintentional evils. The subject is responsible only for what it can know and will in acting; but due to the circumstances of the world, the subject's actions have unforeseen effects (§ 419). In §§ 420-425, Hegel adds to this non-identity five other contradictions (or "relative identities") all of which are characteristic of morality:

(a) the opposition between the *universal* will, which the *singular* subject is obliged (*soll*) to realize in the particularity of the world (§ 420);

(b) the opposition between the *concept* of the good and the *reality* that the singular subject must (*soll*) know, intend, and produce (§ 421);

(c) the opposition between the good, which is *universal*, and the *many* mutually conflicting particular duties (§§ 422-423);

(d) the opposition between the good (*das Gute*) and well-being (*das Wohl*, see § 416) (§ 424); and

(e) an opposition that summarizes the preceding oppositions, while emphasizing the non-identity of the subject's *interiority* and the objectivity of the world (§ 425).

Because all these "contradictions" cause dynamic tensions, they urge the subject to resolve them. Each presents a different aspect of the central obligation or *Sollen* that rules morality. It is not easy to see whether, and if so to what extent, the phenomenon analyzed in §§ 416-425 differs from the *Sollen* that has already been analyzed in Enc A 392-399 as "*reelles Urteil*" of the subjective practical spirit. Are not the contradictions that oblige the *singular* will to accomplish the union of practical reason with the particular drives of the subject and the external world in which it lives, given as soon as the individual is confronted with the oppositions between its own rational will, its inclinations, and the objective world? Elsewhere I have tried to show that Hegel's philosophical psychology implies the fundamental principles of his moral philosophy.¹⁷ Having decided that morality should be thematized as part of a treatise on the *objective* realization of freedom, Hegel can no longer focus on the internal structure of the human spirit; instead, he must focus on morality's contribution to the establishment of an objectively rational, free, and just world. To what extent can subjective behavior ameliorate the world? And correspondingly, to what extent should the objective institutions of the world respect the *moral* constitution and behavior of individuals? The analyses of Enc A 416-425 do not stress these questions, but their connections with the normative implications of Hegel's conception of subjective practical spirit are obvious. This is perhaps the reason why Hegel has eliminated these analyses in the *Grundlinien*, as the following table shows. But then it is surprising that the second and third editions of the *Encyclopedia*, which follow the outline of the *Grundlinien*, offer once again an extensive analysis of the moral contradictions (BC 507-510) that is very similar to Enc A 420-425.¹⁸

¹⁷ See *Foundations and Hegels prakt. Phil.*, pp. 99-106.

¹⁸ See the table on p. 195 of *Hegels prakt. Phil.*

MORALITY

<i>Enc 418-429</i>	<i>Grl 105-140</i>
416-417: Concept of morality	105-106R (107): Concept of morality
418-419: Action, right, guilt	108-113: Unfolding of this concept
	108-109: Form
	110-112: Content
	113: Action
	114: Divisio
	115-118: 1. <i>Vorsatz</i>
	119-128: 2. <i>Absicht & Wohl</i>
420-425: The contradictions of the moral <i>Sollen</i>	
426-429: Conscience and Evil	129-140: 3. The Good and Conscience
	- The Good (129-135)
	- Conscience (136-138)
	- Evil (139-140)

The conclusion to which the analysis of §§ 420-425 leads is that the moral dimension is fragmented and that the willing subject is confronted with a perpetually unresolved *Sollen*. Neither the realization of the good in the real world together with the extirpation of evil, nor the happiness of good individuals can be guaranteed by the moral will, even if this confirms to reason and freedom. On the level of morality, the good and well-being can be realized only incompletely and their coincidence seems utopian. The fulfillment of the fundamental duty implied in the constitution of a human individual is at the mercy of chance (§ 425).

Instead of postulating a transcendent Judge, who is just, wise, and powerful enough to overcome the contingency of the moral dimension, as Kant does,¹⁹ Hegel will try to show that the divine spirit, who is present in every dimension of the real world, integrates all the elements of morality in a more perfect and complete dimension of life: the realm of *Sittlichkeit*. But first we must see how morality, if it is made independent and absolute, shrinks into a simple, completely undetermined point from which the transition to the ethical realm is made.

¹⁹ *Kritik der praktischen Vernunft*, Ak V, pp. 124 ff.

Enc A 426:

The all-sided contradiction, expressed in this manifold *Sollen*, is the most abstract analysis of the spirit, its deepest entering into itself. The pure relation of the mutually contradictory determinations is the abstract certainty of itself, the *infinity* of subjectivity, for which the universal will, the good, right, and duty, as much is as is not, and which knows itself as the choosing and deciding [power].

Enc A 427:

Because this choosing self-certainty (*Gewißheit seiner selbst*) is the reflection of the abstract will, which in its immediate singularity is infinite for itself, it yields two forms that immediately pass into one another: *conscience* (*das Gewissen*) and *evil* (*das Böse*).

Conscience is the will that wills the good, but, as [caught] in this pure subjectivity, this will is *not objective*, not universal and unsayable; the subject knows that it *itself* in its *singularity* is the decisive [power] over this will, consequently, it contemplates and enjoys its [own] particular excellence.

Evil, however, is this same knowledge of its singularity as deciding [power] insofar as it does not remain in this abstraction, but has the content of a subjective interest in opposition to the good.

Enc A 428:

This summit of the *phenomenon* of the will, evaporated into this absolute vanity — a non-objective, but purely self-certain, being-good and a self-certainty in the nullity of the universal — collapses immediately into itself. *Evil*, as the pure reflection of subjectivity in itself against the objective and universal, is the totally abstract *semblance*, the immediate perversion and annihilation of itself, because, in contrast, it is immediately the pure identity with itself. The action of evil, crime (§ 414), is the expression (*Darstellung*) of this perversion, in which the moments of the concept have the shape of external reality in relation to one another.

Enc A 429:

The merely abstract *good disposition* (*gute Gesinnung*) is within itself the overcoming (*Aufhebung*) of the mediation of this reflection and choosing in the simple universality of the good, [i.e.,] of the nullity of the null. This universal has in its concept and in this consciousness also the meaning of the unsayable or the plainly *immediate* good, and therewith [the meaning of] the *objective*. In this, its own, identity with it, the subjectivity has sublated the standpoint of the *relation* while passing over to *Sittlichkeit*.

The fragmentation of the moral dimension leaves only one possible escape from the many contradictions. Only the pure cogito, which, as practical subjective spirit, reveals itself as an "I will," can hold the opposite terms together. The good, the world, various duties, well-being, and evil exist as mutually opposing thoughts of

the willing subject. If the subject remains confined within the limits of morality, it cannot find rest in the tensions caused by unresolvable contradictions, but only in itself. By withdrawing into itself, it retains the abstract certainty that all determinations depend on its decision and are thus its own. The spirit concentrates itself in the limitless emptiness of an abstract singular will. As such, the subject of this will is "the power over right" (§ 415), which arbitrarily decides what the content of the good should be, how it must be concretized in specific obligations, and how it will be realized in the world. Ignoring the many contradictions that are unresolvable within the limits of morality, the subject consults only its inner self-certainty to realize what it knows to be its task.

Having absolute certainty about its isolated self, a singular will can choose good or evil. Similar to the criminal who chooses to transgress the right of persons, a morally bad subject chooses against reason and true freedom, but it can change. If the realization of some good is due to the choice of such a subject, it is unclear whether it is really the good that has triumphed; the choice might have been motivated by the mere pleasure of the acting subject. The subjective certainty of conscience should obey the universal and objective good, not the other way around. Subjective choice cannot convert good into evil or evil into good; if it sees itself as such a power, it is already evil. By declaring the subjective certainty of one's own conscience the criterion for good and evil, one has already rejected the demands of the good itself (i.e., of reason, free will, right, universal duty). A subject whose singularity is the absolute ruler, is a Narcissus: it "contemplates and enjoys" the singular and particular aspects of itself which it sees as excellence, whereas it is in fact a devil (§ 427).

Hegel does not deny that subjective certainty is an essential element of a morally good life. Indeed, a good will is not possible without insight and intentions of one's own (§ 416). Neither does he despise the guidance of individual conscience; his critique of conscience focuses rather on the danger that its merely subjective and singular aspects be proclaimed the only relevant ones. If these are played off against the commands of the rational will's "objectivity" (i.e., the will's universality and necessity), conscience is no longer healthy and complete, because it has then become detached from its own rationality. It is then a partial and bad

conscience, because its *Dasein* betrays and perverts its concept, even if it can still ape the attitude of an orderly conscience (§ 428).

The good disposition of a rationally free conscience (§ 429) does not find its supreme norm in subjective reflection and choice, but rather in the objective universality of the good (which, however, remains an empty concept as long as we are imprisoned in morality). By adhering to the good itself (i.e., our own basic freedom), we leave behind the empty arrogance of subjectivism to acquire a new form of naiveté. We must then discover how the true principle (the good, rational freedom, universal will) differentiates itself in concrete duties and rights. The good, as *moral* good, is indeterminate and indeterminable, "ineffable" (*unsagbar*). However, this is no reason to replace it with the arbitrary choices and decisions of singular subjects (§ 427); on the contrary, it urges us to discover another, more objective dimension of differentiation in which the good simultaneously concretizes itself in the reality of the world and fulfills the individuals' true desire for freedom and harmony. The true synthesis or *Schluß* is only reached in the concrete identity of the subject with the good and the world. The objectivity of a well-ordered world enables the moral subject to feel at home; the subject's singular freedom is not oppressed but is made possible through the particularization of the good in ethical institutions that deliver the good from its ineffability (§ 429).



The explanation of Hegel's treatment of morality in the *Encyclopedia* of 1817 as a specific dimension between right and ethicality has taken many pages, but the basic structure of its argument is relatively simple. Its logical framework is found in the logic of the *Urteil*. The moral dimension is dominated by relations, oppositions, and contradictions, which cannot be overcome within it. These create a normative dynamism that is oriented toward a *Schluß*, i.e., a synthetic unity (or "identity") of all the terms involved in morality.

The chapter begins with a definition of the concept of *morality*, in which its non-synthetic character and its orientation toward a synthesis is emphasized (§§ 416-417). Because the concept of morality must (*soll*) be actualized through free will, its definition is

followed by the definition of *action* as the realization of the concept and its demands (§§ 418-419). The core of the analysis is given in §§ 420-425: by itself, morality is a bundle of contradictions. The only solution to this impossible situation lies in another dimension: ethicality (§§ 430 ff.). Before that dimension can be introduced, we must first see how morality (a) perverts itself by becoming an evil subjectivism if it refuses to be sublated in a more complete dimension, and (b) is an indispensable element of the concrete good, insofar as this requires singular subjects of good inner dispositions (*gute Gesinnung*).

Though the text of the *Encyclopedia*, especially its first version, is even more dense and difficult than the text of the *Grundlinien*, its study may facilitate our understanding of the questions that continued to preoccupy Hegel. If the second chapter of the *Grundlinien* lacks a clear composition, its comparison with other versions might give us an insight into its central issues and the reasons Hegel changed certain developments of his first version.

Morality in the Grundlinien (§§ 103-140)

The Morally Good Will (§§ 103-104)

The last section of the chapter on abstract right (§ 103) formulates a definition of the morally good will as result of its analyses (§§ 34-102). If right cannot be realized unless there is a punitive justice, a will is needed that, "as particular and *subjective* will, wills the universal [will, right] as such" (§ 103). A morally good will is postulated (*gefordert*) and deduced (*hervorgegangen*) as a condition for the possibility of right's actualization. We must now focus on the moral structure of the free will: a *singular* will, having *particular* interests through its drives and inclinations, ought to (*soll*) will what the *universal* will (i.e., the rationally free will expressed in abstract right) wills, but it *can* also act against its own free rationality.

The morally good will was already evoked in the discussion of the first two forms of *Unrecht* (§§ 86 and 89). As in § 103, the reason given for its necessity was that injustice would prevail if it were not redressed by a just will. Since it is unthinkable that reason, freedom, right, and justice on the whole and in the end would not triumph, the postulate of a just will is not only a demand

(*Forderung*) or a *Sollen* (§§ 86, 89, 103), but a necessity that has been deduced.

As I have argued in the preceding chapter, factual injustice indeed proves (1) that there is a difference between the universal will, as expressed in right, and the will of the individuals that must realize it, and (2) that their agreement is contingent. But even without the occurrence of injustices, the *Sollen* that is inherent in right already by itself implies this difference and contingency. The moral (good or bad) will could thus have been deduced directly from the concept of right as the demand for respect (§ 36) or even from the normativity contained in the freedom of the subjective practical spirit. However, Hegel's logic demands that the difference between the universal and the particular moments of the will unfolds into a contradiction before the two can become integral elements of an actual unity.

This difference is reformulated in § 104 and unfolded in §§ 105-140. Section 104 makes a "transition from right to morality" by first summarizing the final part of the first chapter and then reinterpreting an element of its conclusion. In crime, the will has split itself into the universal (moment of the) will (i.e., practical reason as the right to personal property) and the singular (moment of the) will, but through just punishment the will overcomes its inner duality and its own hostile singularity. By submitting the criminal to itself, the universal will at the same time reveals another aspect or moment of its relation to the singular will: it *needs* the latter in order to become actual, not only as materialized in some property but as willed by a singular will that has a relation to itself when it knowingly and willingly chooses to actualize right (the universal will) as such. By willing right as such, the singular will reveals that it can negate its own unjust negation of the will's universality. As a double or "absolute" negation of itself, the singular will manifests not only the basic concept of morality, but also that of an ethically good will. In my interpretation of § 103, I pointed out that Hegel, at that point, anticipates not only a morally good will, but also, at least in principle, the institutionalized power of the judge, which remains only implicit until § 220. In the parallel section of the *Encyclopedia* of 1827 and 1830, Hegel explicitly states that the punishment of injustice requires "the will of the judge" (B 501) or "the judge" (C 501). Even in § 86 he already hints at this. Thus the

last section of Abstract Right (§ 104) achieves more than a “transition from right to morality,” as its title says: it also anticipates the structure of the other two chapters of Hegel’s philosophy of objective spirit.²⁰

Section 104 does not introduce a theory of ethics when it sketches the abstract concept of a righteous will, if by “ethics” we mean that part of philosophy that is concerned with a certain way of life and the characteristics of virtues and duties. By concentrating on the formal structures of good and bad actions under the title of morality, Hegel’s perspective is rather similar to that of Kant in his second *Critique*. Like Kant’s analysis of freedom as practical reason, the second chapter of Hegel’s book restricts itself to a moral formalism, while delaying all concrete questions of ethics until a metaphysical consideration of the *Sitten* is provided. Similar to Kant’s distinction between his “groundwork” in the *Grundlegung* and the second *Critique*, on the one hand, and his *Metaphysics of Morals*, on the other, Hegel separates his formal theory of morality from the concrete ethics he could have written if he had bothered to make explicit which virtues and duties follow from his general theory of *Sittlichkeit*.²¹

Having said this, I must qualify my statement. Hegel’s treatise on morality is not a *complete* consideration of the formal elements

²⁰ In Homeyer’s course notes (1818-19), the figure of the judge appears in a remark on his § 45 (corresponding to GrI 86) and § 56 (corresponding to GrI 103); cf. Hom 235 and 239. However, the transition from right to morality in Homeyer’s § 57 does not mention the judge or “punishing justice” (*strafende Gerechtigkeit*), but proceeds directly from vengeance (*Rache*) to morality. Hom § 56R states that legal punishment “belongs to the state” (Hom 239). Right remains basic and central for Hegel’s morality, even if it can take the form of love in the family, of charity in the civil society (GrI 207, 242, 253, and 255), and of patriotism in the state (GrI 268).

²¹ See below Chapter Seven (*Sittlichkeit*) and “Hegels Pflichten- und Tugendlehre,” in *Sieph, Grundl*, pp. 167-192. With respect to the relations between Hegel’s ethical thought and Kant’s practical philosophy, a flood of secondary literature has been produced, mostly concentrating on moral questions and the *Phenomenology* of 1807. Some excellent articles are the following: Claudio Cesa, “Tra Moralità e Sittlichkeit: Sul confronto di Hegel con la filosofia pratica di Kant,” in Valerio Verra (ed.), *Hegel interprete di Kant* (Napoli: Prismis, 1981), pp. 147-178; “Hegel und die Kantische Moralität,” in C. Fricke et al. (eds.), *Das Recht der Vernunft: Kant und Hegel über Denken, Erkennen und Handeln* (Stuttgart: Frommann-Holzboog, 1997), pp. 291-309; Manfred Baum, “Hegels Kritik an Kants Moralprinzip,” in *Hegel-Jahrbuch* (1987): 234-244; Jean-François Kervégan, “Le problème de la fondation de l’éthique: Kant, Hegel,” in *Revue de Métaphysique et de Morale* 95 (1990): 33-55. See also note 29.

characteristic for a morally good or bad life. In the first place, it presupposes acquaintance with his treatise on the formal structure of the subjective practical spirit, as provided in the *Encyclopedia* and the Introduction of the *Grundlinien*. In the second place, the chapter on morality in the *Grundlinien*, in contrast with the three versions of the *Encyclopedia*, does not emphasize moral questions like What ought I to do? How should my life be oriented? Which intentions make my behavior good? How can I resolve conflicts among duties? Morality is introduced as a bridge between abstract right, which demands its actualization, and the actualization of all rights accomplished in ethicality, and is itself investigated *as a right*. The principle of morality is treated as a principle of right distinct from, but not entirely alien to, the principle of personality and property, which was unfolded in Abstract Right. "Morality," though not a concrete right, is another abstract principle of ethical freedom or right in the broad sense of the word "right."

The two limitations indicated here restrict Hegel's morality in the *Grundlinien* to an aspect of "natural right" (*Naturrecht*), in the sense explained in Chapter Three, and they restrict his perspective to the question: What right does an individual subject have to act, to choose, to decide, to accept, to protest, and so on *vis-à-vis* other rights, especially regarding the rights of the state (which, though always present, is not mentioned in this chapter).²²

Hegel's Moral Philosophy

If we want to reconstruct Hegel's foundations of moral philosophy from his published work in which it remains only implicit, his chapter on morality would not be a good point of departure. The core of his moral philosophy can be found in his analysis of the subjective spirit insofar as it realizes itself in the duality of particular feelings and drives, on the one hand, and the universal

²² I disagree with Shlomo Avineri's interpretation of Hegel's distinction between *Moralität* and *Sittlichkeit* in *Hegel's Theory of the Modern State* (Cambridge: Cambridge University Press, 1972), p. 137. *Moralität* does not occupy a limited sphere where "it regulates the relations among individuals with one another *qua* individuals" within "the wider totality of ethical life," which is "superimposed" on it. Rather, it is a formal and co-constitutive *element* of ethical life itself and has, in principle, the same horizon as the latter. Cf. also Ilt 4, pp. 338 (commentary on GrI 135) and the studies of Amengual, Menegoni, and Siep cited in note 1.

will, on the other. The Introduction of the *Grundlinien* resumes this analysis and shows that it contains an ethics of *rational self-determination*. As a free will, I ought to (*soll*) actualize my freedom according to its inherent rationality by making it concrete in my body and mind, the natural and social world in which I am involved, and the history of which I am a part. Through my *Willkür* I am able to determine by myself how I will unfold my possibilities into the external, worldly, and historical actuality of a concretely free human being. The result of this process has an "objective" and an "absolute" dimension. Its objectivity encompasses the juridical, familial, socio-economic, political, and historical institutions of the "world" (in the sense of Hegel's overall "right"), while its absoluteness is concretized in art, religion, and philosophy.

My own self-realization encompasses aspects of all three dimensions, but my *Willkür* would be unable to accomplish the task if the surrounding universe of "right" and culture, through its rational order and contents, did not suggest to me how I should behave and allow me to participate in its amelioration. If the existing order is irrational and unfree, my will may still be oriented toward the perfect good, but its intentions will be distorted or repelled by the historical reality. Some form of tragedy is then inevitable. My attempts at actualizing the rationality of my own practical reason are then contaminated by the existing irrationality; but even while my actions are perverted, they point to a better world that we should try to build for the future (§ 138).

Hegel's moral philosophy is Aristotelian insofar as it shows that the idea of human spirituality (the human essence or *physis*) implies the task (the *ergon*) of self-actualization,²³ but the terminology in which he presents this basic thesis is Kantian, although he does everything he can to overcome Kant's dualities. However, the main difference he sees between himself and Aristotle lies in "the principle of subjectivity," a modern principle that, according to Hegel, was not yet revealed to the ancient world, though Socrates had already an experience of it (§ 279R).

²³ See *Foundations* and Ilt 4, p. 298: "A human being ought not to remain as he is immediately; this is the highest religious commandment."

The Principle of Subjectivity (§ 124R)

At the end of his Introduction to the *Rechtsphilosophie* (Grl §§ 25-26), Hegel distinguished among various meanings of the words "subjective" and "objective" in relation to free will. He warned the reader that the meaning of these words must be clarified each time in light of the context in which they appear and the totality of which they indicate some elements. "Subject" and "subjective" are especially crucial in the treatment of morality. We will see to what extent more than one meaning of these terms are involved in its analysis, for example, in the expression "the principle of subjectivity," which is also called "the principle of the independent particularity [of the will]," "the principle of the in itself infinite personality of the singular [will]," "the principle of the pure relation of the will to itself," and "the principle of the infinite reflection of self-consciousness in itself."²⁴ All these expressions translate a general phenomenon into the logical and psychological terminology of Hegel's system. The principle of subjectivity is the principle according to which each (adult and normal) individual can, may, and must know and will what he or she does. We have the right

²⁴ See §§ 26R, 121, 124, 138 & Z, 150, 162R, 206R, 228R, 258, 260R & Z, 261R & Z, 262Z, 268R & Z, 273Z, 274Z, 279R, 299R & Z, 301R, 316Z, 317Z, 318, 319R, 328R, and Hegel's marginal note to § 105. Cf. also Enc C 482R and Wa 185: "[T]his moment of infinite value, which the individual as individual has in itself, this principle of the Christian religion — that the singular has worth as singular, that there should not be slavery, that one should know oneself in religion as an object of divine love as much as all others — demands that the singular must give existence to itself, and its *Dasein* is its particularity." In Grl 104R, Hegel introduces the concept of subjectivity as the highest level of individual self-determination. Looking back on the degrees of self-determination discovered in Abstract Right, he distinguishes the following levels: (1) in property, an *external* thing is *abstractly* mine; (2) in contract, an external thing is *common* to and *mediating* between more wills (which determine themselves by commonly willing that the thing passes from one to the other); (3) in wrongdoing, a singular, *contingent* will posits the universal will (right itself, insofar as this is still abstract and immediate) as something contingent (thus trying to subordinate the person's own universality to the contingent singularity of his will); (4) in morality, the contingency and singularity of the individual's will are preserved, but they are "reflected" back into the universality of the individual's will, so that this will, though contingent, wills what it wills as universal will (or — the other way around — so that the universal will realizes itself in the self-determination and action of the individual will). For a good discussion about the non-individualistic meaning of Hegel's principle of subjectivity, see Gabriel Amengual, "Ist das moderne Prinzip der Subjektivität individualistisch?" in *Hegel-Jahrbuch* (1992): 59-71.

and the duty not only to own external goods, but also to own our actions. This distinguishes us as free individuals from beings whose expressions or deeds are the result of vital drives or mechanical causes, as well as from other human beings, like children and mad or primitive people, who, without knowledge or the power to choose, simply do what the community to which they belong instructs them to do. Each individual, as a free singular subject, has a right to decide what he or she wants to do and is responsible for it — within certain limits, however, as we will see.

The principle of subjectivity is the justification of a subordinate but real kind of individualism, the kind illustrated in Hegel's analysis of civil society and the democratic elements of the state (especially the representation of the *Stände* in the legislative power and public opinion as expressed in the media).

In the Remark on § 124, (which should be supplemented by §§ 185R, 260R, 301R, and the other passages indicated in note 24), Hegel presents the principle of subjectivity as the main characteristic that distinguishes modern times from the ancient world, as exemplified in Plato's *Republic*. By stating that "the right of subjective freedom" is a Christian principle and that only the modern world has actualized it, Hegel summarizes his interpretation of world history. Though Christ already revealed the principle (and the Roman empire was a first, lopsided expression of it), it took many centuries before Luther understood it correctly and a few more centuries to realize it *in politics*. Between the ancient and the Lutheran, truly modern world, Hegel saw little more than darkness.²⁵

In his State, Plato exposes the substantial ethicality in its *beauty* and *truth*, but he is not able to cope with the principle of independent particularity, which invaded the Greek *Sittlichkeit* of his time. The only thing he could do was to oppose his merely substantial state to that principle and to exclude it entirely from the state's foundations by forbidding private property (§ 46R), the family (§ 162R), and — in more developed states — also [forbidding] personal preferences (*die eigene Willkür*), the choice of a *Stand* (§ 206R) and so forth [. . .]. The principle of the *independent, in itself infinite*

²⁵ See above notes 5 and 6; Wa 261; Ilt 4, p. 301 and passim in *Philosophie der Geschichte* (Su 12). Hegel's "enlightened" ignorance about the first 1500 years of Christian history and literature invalidates all his judgments about the so-called "dark middle ages."

personality of the singular [individual], [i.e.,] of subjective freedom, which emerged internally in the *Christian* religion and externally in the *Roman* world, is not recognized in that merely substantial form of the spirit's actualization (§ 185R).

Over against the “merely (*nur*) substantial” totalitarianism of the ancients, Hegel presents the post-Lutheran world as a more spiritual and truly ethical state, able to combine the substantial with the subjective principle without becoming disloyal to either. It possesses “the truly infinite power that [. . .] allows the *opposition* of reason to *unfold its entire strength*, while overpowering it, maintaining itself in it, and *unifying it within itself*” (§ 185R).

Besides the examples of justified subjectivity that we will encounter in the chapters on civil society and the state, such as free commerce, the representation of the *Stände*, and the jury system, Hegel mentions the romantic conception of love, the role of great heroes in the history of politics, art, science, and philosophy, and the importance attributed to individual salvation (§ 124R). Each time Hegel explains the rights of subjectivity in any of its forms, the logic expressed in the passage last quoted makes it necessary to show how subjectivity, together with its opposite, can be integrated into a unity that is not only subjective and objective but also individual and collective. Most often, however, Hegel subordinates the subjective moment to an objective totality, which, if conflicts arise, ultimately triumphs over its individual components. The final identity wins out over the differences of which it is composed.²⁶

The Structure of Hegel's Chapter on Morality (§§ 105-140)

Hegel's chapters usually follow a specific pattern: after the initial, abstract definition of the concept at issue, a *divisio* (*Einteilung*) follows, which anticipates the reasons why the unfolding of the initial concept has to pass through three stages; the analysis then

²⁶ Notwithstanding Hegel's clear and courageous Remark on § 124, the chapter on morality abounds in warnings against subjectivism. See, for example, the long Remark to § 132. Cf. also Ilt 4, p. 347 (regarding GrI 130). Though Hegel's logic demands that lower dimensions of “right” be contained and preserved (*enthalten* and *erhalten*) in the concrete good that is the highest totality of right, subordination is sometimes realized in the form of deadly sacrifice. Cf. GrI 30R, where the general principle of subordination within “right” is formulated, and below pp. 569-571.

shows how these stages lead to a transformation of the basic concept in which a certain kind of unity, but also a new contradiction (or opposition or difference), comes to the fore. The extent to which the third stage is contradictory — and therewith makes it necessary to pass over into a new chapter — varies: sometimes the end of a chapter presents a relatively satisfactory unity, while other times the development of a concept ends with a blatant antithesis.²⁷

In “Morality” Hegel begins with a definition of the moral aspect or the “morality” of the will (§§ 105-106). Section 114 supplies his *divisio*, and the last part of the chapter (§§ 129-140) sketches both the opposition and the necessary union of conscience (as the configuration of the subject’s singular will) and the good (as the moral form of the universal will, §§ 129-140). The text between the definition (§§ 105-106) and the division (§ 114) clarifies the perspective from which morality is studied in this book namely as a concretization of right (§ 107), and it analyzes formal aspects of the moral will and its realization through action (§§ 108-113). The greatest difficulty for understanding the composition of the chapter lies in the question of how sections 115-128 fit into the overall design that is sketched at the beginning and end of the chapter. Part of this difficulty is due to the juridical perspective stressed in § 107 and developed in §§ 115-128, but to clarify its overall structure, a more precise look at the letter of the text is required. A first attempt at clarification can proceed by comparing the two treatments of morality in the Heidelberg *Encyclopedia* and in the

²⁷ In “The Hegel Legend of ‘Thesis-Antithesis-Synthesis’” (in *Myths*, pp. 301-305 and 373-374), Gustav E. Müller has pointed out that Hegel does not use the terminology of “thesis-antithesis-synthesis” and criticizes a formalistic use of the threefold pattern suggested by it. However, Hegel does use expressions and patterns that can be clarified by using the words “thesis,” “antithesis,” and “synthesis” on the condition that the interpreter does not apply them formalistically (which would condemn any terminology) but thinks through what they mean in a Hegelian context. When Hegel says that “becoming is the immanent synthesis of being and nothing” (*Logic*, Su 5, 100), does this not imply that an antithesis has been overcome or sublated, and does not an antithesis presuppose one or more theses? Moreover, can we not use the incriminated triplet in translations and explanations of passages where Hegel develops his thoughts about *Satz*, *Setzen*, *Lehrsatz*, *Entgegensetzung*, *Entzweiung*, *Widerspruch*, *Aufhebung*, *Wiedervereinigung*, etc., or where he unfolds a clearly tripartite structure? The danger lies more in a thoughtless application than in the linguistic patterns that are available.

Grundlinien. As the table on p. 312 shows, sections 115-128 of the *Grundlinien*, in which the *rights* of the moral will are stressed, have been added to the outline of Enc A 416-429, while the analysis of the contradictions proper to morality in Enc A 420-425 is left out in the *Grundlinien*.²⁸

From the perspective of a methodical hermeneutic, it is necessary here more than anywhere else to read Hegel's chapter according to his own distinction between the main text, in which the argumentation is given, and the Remarks, which in various, more or less loosely connected, ways develop or explain some aspects of the main text. Of the ± 39 pages that the chapter takes up in Hoffmeister's edition, more than two-thirds (± 27 pages) are made up of the Remarks, of which ± 14 pages (one third of the entire chapter) are devoted to the phenomenology of immorality with which the chapter ends (§ 140R). The argumentation of the main text therefore covers less than one third (± 12 pages) of the chapter. These proportions can easily mislead readers who prefer the greater clarity of the Remarks over the abstruse formulae of the main text, especially if they also put more trust in student notes than in Hegel's own densely woven writing.

Another pitfall for the interpretation of this chapter lies in the polemical character of many Remarks. The relationship between Hegel's thought and Kant's foundation of moral philosophy, for example, is particularly obscured by his own negative statements about Kantianism and even more so by those interpreters who presuppose that Hegel's practical philosophy is a sustained criticism of the Kantian foundation. On the contrary, we will see that Hegel shares many of Kant's presuppositions and much of his conceptual framework, and that, even where he criticizes Kant, he is much closer to him than he himself may recognize. The true differences between these two giants of thought cannot be discovered unless we first reconstruct both moral philosophies according to their own movement and style (and also that of Fichte, whose shadow partially hid Kant from Hegel).²⁹

²⁸ The second and third versions of the *Encyclopedia* (BC 503-512) have more or less successfully integrated the structure and the additions of GrI 105-140 into the text of Enc A 416-429. See *Hegels prakt. Phil.*, pp. 194 ff.

²⁹ See *Le jeune Hegel*; I. Görland, *Die Kant-Kritik des jungen Hegel* (Frankfurt/Main: Klostermann, 1966); Thomas Baumeister, *Hegels frühe Kritik an Kants Ethik*

Kant is not the only, and not even the primary, target of Hegel's polemics. Though the latter sees a fundamental flaw in Kant's ethics, he is much more concerned about the varieties of romantic subjectivism that continued to flourish and for which he had felt a deep affinity as a student in Tübingen.³⁰ Later on, when he comments on any kind of subjectivism, especially in the field of praxis, he seldom refrains from caricaturing these enemies and exaggerating the opposite perspective.³¹ In any case, his clear declarations about the rights included in the modern principle of subjectivity (§ 124, etc.) do not mitigate his conviction that the "standpoint of *abstract* conscience" (my emphasis) is "the main standpoint and the sickness of this time."³² A genetic study of Hegel's own philosophical development can probably demonstrate that he never quite achieved a balanced position with regard to the question of feelings and convictions, but such a task cannot be accomplished in this book. For a systematic explanation of his public theory it might suffice to be aware of a certain hyperbole in his rhetoric.

The Concept of Morality (§§ 105-106 and 33)

Whereas abstract right is freedom's external *Dasein* in property, a morally good will realizes freedom not by claiming property, but, more fundamentally, by willing that property as such be universally respected, as well as all other demands of (abstract) right. Every person, in the juridical sense thematized in §§ 35-36, can own external possessions, but to own one's own willing, one must know and will oneself as the origin of one's actions. Whereas *personality* is the principle of possessing external things as one's own, the *moral subject* claims its plans, intentions, motivations, and decisions as its own. The formal definition of the moral will, insofar as it precedes the distinction between a good and a bad will, is the following: the *singular* will of a human subject (or rather the singular moment of

(Heidelberg: Universitätsverlag, 1976); Andreas Wildt, *Autonomie und Anerkennung: Hegels Moralitätskritik im Lichte seiner Fichte-Rezeption* (Stuttgart: Klett-Cotta, 1982); and Siep, *Prakt. Phil.* pp. 65-129.

³⁰ *Le jeune Hegel*, pp. 21-42.

³¹ For example, sections 8-10 (pp. 8-12) of the Preface; cf. *Philosophy and Politics*, pp. 70-86.

³² Marginal note to GrI 138R, Ilt 2, p. 491.

the free will or the will as singularized in an individual), insofar as this singular will owns and determines its own willing and thereby qualifies its relation to the other moments of the free will. These other moments are the *universal* (moment of the) will (i.e., practical reason in its universality) and the *particular* (moment of the) will (which — as we know from the Introduction to the *Grundlinien* and from the Encyclopedic treatise on subjective practical spirit — is the ensemble of particular needs, drives, inclinations, passions, etc.). In morality, the emphasis lies on the relation between the singular will as naturally determined by its particular inclinations, on the one hand, and the universal moment of the will, which is the core of its own concept, on the other. An important difference between (abstract) right and morality is that right, as only negative and prohibitive, is not concerned with the particular content of property, contract, and so on (§§ 37 and 38), while morality is. The moral subject must discover what kinds of ends and actions it must and may realize in order to act at all. The main question, which is clearly expressed at the end of the chapter, is how the singular will can unite itself with the will's (i.e., its own) universality, or how, vice versa, the *universal* will can be concretized in the *particular* plans and actions of *singular* wills. If such a union — the good will or the concretely enacted good — is possible, it will be due to a mediation between the singular and the universal moment of the will. This mediation can only be found in the particular determination of both the universal moment (its differentiation in specific good actions) and the singular moment (its decision for specific good actions).³³

Characteristic features of the moral will are the following: In contrast with the will as immediately realized in external property, it is the will insofar as it is conscious of and concerned about its very willing. How shall I and how must I will? How must I be motivated? What can and ought I intend? Turned toward its internal purposes, choices, and decisions, it looks within itself in order to determine which of its possibilities it has to realize. The

³³ GrI 149: “. . . the moral will, which, through its *Willkür*, determines its undetermined good.” Cf. Hom 241 (“morality [is] the standpoint of the *relation* and the *Sollen* of the universal and what is in itself against the particularity of the will and being”) and Ilt 3, p. 186.

moral will is a reflexive will, a will that is its own object or a will that owns, knows, and wills itself.³⁴

"Subjectivity" is the word by which Hegel characterizes a singular will that wills its own free self-determination. As "reflected in itself," the subjective will is a closed circuit in itself and thus "infinite *for itself*," not merely free *an sich* as a person (§ 105),³⁵ but free for itself in knowing and deciding what it wills.

While being a person was the first, immediate *Dasein* of free will, subjectivity, as the being-for-itself of freedom in the singular will, is a "higher ground" (§ 106) because self-determination, which is freedom's core, is now realized as a will that knows and wills itself, rather than only willing and claiming something external to itself. Within the dimension of objective spirit, the relation between personality (abstract right) and subjectivity (morality) echoes the relation between nature and spirit: (abstract) right is the immediate expression of free will in owning things, bodies, and work, while morality concretizes the free will as owning and enacting one's own will (which, as we will see, implies owning knowledge, actions, intentions, and plans of one's own). However, morality, though more internal and spiritual, and therefore "higher" than (abstract) right, is still an *immediate* expression of free will, because it is only an element of freedom's realization that has not yet shown how it, together with right, can be integrated into the concrete unity of actualized or ethical freedom. The analysis of the moral will must therefore show how it is a subordinate but integral element of that higher reality, which is found in *Sittlichkeit*.

Similar to (abstract) right, morality, as *immediate*, is only an abstract moment of the ethical world, which is the only complete reality of objective spirit. The chapter on morality could therefore have been likewise entitled "abstract morality." It would be vain to seek within it a full analysis of any concrete moral life or a solution

³⁴ In the chapter on morality in the *Grundlinien*, Hegel does not insist on the contrast between the externality of (abstract) right and the *forum internum* of morality. However, he accepts and employs the characteristic distinction between legality and morality, which Kant and Fichte thematized as fundamental. Explicit statements are found, e.g., in Enc 530 and in a marginal note in Ilt 2, p. 325 (on GrI 81): "morality is the interiority of the will — i.e., the will that wills *itself*, [the] *will* [is] object *for itself* [. . .] morality as for itself — [the] will that is returned *into itself*."

³⁵ Cf. Ilt 3, pp. 330-331 and 4, pp. 299-300.

to concrete problems of "applied ethics." Morality in Hegel's sense is a concept that is as formal as (abstract) right. Its concretization in an intended and behavioral content cannot be studied until the ethical (*sittliche*, i.e., social) dimension comes in sight. In other words, concrete moral questions belong to social and political philosophy (including the philosophy of the family, economics and politics, and the culture(s) of nations and humanity as a whole). As the formal moment of all human action (see below), morality is coextensive with the entire unfolding of objective and absolute spirit. It is not one particular dimension alongside other dimensions, but rather an essential aspect of all human dimensions.

In § 33, where he justifies the main articulation of his *Rechtsphilosophie*, Hegel provides a definition of morality that is very similar to the one given in the Heidelberg version of the *Encyclopedia*, with the exception that in the *Grundlinien* he more strongly emphasizes that "the sphere of morality" is a sphere of rights.

Reflected back into its interiority out of its external property, subjective singularity discovers itself opposed to a double universality: on the one hand, it has to cope with the spiritual universality of the rational will, while on the other hand, it must struggle with the first and second nature of the world, which has its own independence *vis-à-vis* the universal will and the singular will.³⁶ This opposition between the three moments of free will constitutes the typical configuration in which the idea of free will appears in morality. The question to be answered in this chapter, therefore, is how this ensemble of relations can be transformed into a true totality.

The task can also be formulated in the language of § 106R. Morality is a "process" through which the conceptual identity of the singular will with the universal will — an identity explained in Hegel's philosophy of subjective practical spirit — can be actualized in the objective reality of the existing world. The moral process must show how the difference between the conceptual identity of all its moments in the unified will and its existence in the form of a multiple opposition between the singular (and particular) will, the universal will, and the world can and must be

³⁶ See also GrI 108, where Hegel replaces "the world" with 'the objectivity as external *Dasein*.'

transformed into an actual identity. Only such an identity can make the subject at home, i.e., concretely free or *bei sich*, in its own completely expressed free will. So long as this process of transformation is unfinished, morality is characterized by harsh imperatives (*Sollen*) and unfulfilled demands (*Forderungen*, § 108). Once the moral will has become identical with the will's universality, however, the *Sollen* has shown itself to be a subordinate element of an established pattern of life.

Morality Is a Right (§ 107)

If "right" is the name for the *Dasein* of free will (§§ 4 and 29), and if the subjective will is one moment of this *Dasein*, subjectivity is a right. "The moral standpoint [or rather, the dimension of morality] is therefore [. . .] *the right of the subjective will*" (§ 107). The process defined in § 106R is thus at the same time the development of this right (§ 107R).³⁷

The subjective will is not only obliged to develop itself; it is also justified in claiming its willing (decisions, intentions, motivations, actions, results, etc.) as its own. It has not only duties, but also rights.³⁸ Just as the owner can claim his property in dealing with other persons, a subject's decisions can be claimed as her own; a new, "higher" form of "mine-ness" is inaugurated in morality. Though Hegel does not say this explicitly, we may apply the basic rule of abstract right ("*Be a person and respect all others as persons*," § 36) to the level of morality: *Be a subject and respect all others as subjects!* On the positive side, a subject can and must demand recognition and respect for his or her actions as freely intended and accomplished, while on the negative side, one can excuse

³⁷ This is clearly expressed in the first sentence of the parallel chapter in Hom 241: "§ 58. The *moral right* (*das moralische Recht*) is the *Dasein* of the free will as a subjective will." The "rightly" aspect of morality is stressed in §§ 107 & R, 117, 118, 120, 121, (124R), 125, 126, 128, 132, and 137R. From § 133 on, the concept of duty is brought to the foreground. Though Hegel, in § 108, says that "the moral standpoint is the standpoint of *relation*, *Sollen*, or *exigency*," the *Sollen* receives remarkably little attention in his analysis, except in § 135R, where he polemizes against Kant's formalism and refers to his critique of the moralistic standpoint as delivered in the *Phenomenology of Spirit*, GW 9, pp. 324 ff. and Enc A 420 ff.

³⁸ See the next chapter for the identity of duties and rights.

oneself for occurrences that were not willed, though they may have unknowingly been occasioned by one's actions.

It is revealing that nowhere in this chapter does Hegel mention the necessity of rewarding or even simply recognizing meritorious or praiseworthy deeds. His perspective is focused instead on a judiciary framework in which subjects must defend themselves against possible accusations.

In the last sentence of § 107 the word "only" (*nur*) sets the tone for the following sections: "According to this right, the will *recognizes* and *is* something only insofar as it [this something] is its *own* (*das Seinige*), [and insofar as] the will is itself the subjective element in it." Hegel's presentation focuses on the opposition between the rights of singular subjects and other rights, especially those of the national community to which the subjects belong. The question of subjective rights is immediately restricted to questions of responsibility for harmful or dangerous deeds, however. A judiciary setting serves as the background of Hegel's treatment of subjectivity, and the right of being and claiming to be a free subject is analyzed mainly from the perspective of imputability. Some passages even seem to turn the "process" sketched in §§ 106R and 107R into a process *against* morality; it is thus the reader's responsibility to find a balance between Hegel's principled arguments and his rhetorical exaggerations.

The imperative "Be a subject!" like "Be a person!" or "Be fully human!" could be developed into an impressive theory of freedom, which would include an ethics of virtues and vices as well as duties and rights in which the human essence or "nature" (or the "idea" of man) could and should be unfolded. Plato and Aristotle have given us important hints for such a theory, even if Hegel is correct that they had not yet grasped the modern principle of subjectivity. As the following chapter will show, Hegel's ethics of virtues and duties remains implicit in his political philosophy. His formal analysis of morality is dominated by a deep hostility toward any attempt to propose duties and rights that fall outside or even oppose the ethical life of a well-run state. Even in the chapter that should have unfolded the full potentiality of modern subjectivity, all Hegel's statements are accompanied by such anxious questions as: To what extent do you have a right to claim that you, as an individual, are free, autonomous, responsible,

conscientious? Did you sufficiently consider the rights of the state? And so on. "The right of the subjective will" (§ 107) seems to be understood primarily as a duty not to oppose one's subjectivity to the ethical objectivity or, in other words, as the right of the state (or the judge) to deny or sacrifice one's subjective rights, if necessary, in the name of the higher right of a national community.³⁹

Formal Analysis of Moral Action (§§ 108-113)

Having defined the concept of moral willing in §§ 105-106, Hegel begins his analysis of it while delaying the consideration of its right to §§ 114 ff. Using the logical distinction between form and content, the analysis is divided into two parts: §§ 108-109 (form) and §§ 110-113 (content).

Freedom (i.e., the idea of free self-determination) requires the subjective will of individuals in order to be realized. Subjectivity is not merely one of the formal elements or aspects of freedom; rather, it is its form. But insofar as the subjective will does not generate a content for itself, it is *only* formal, and consequently abstract, limited, finite. As such it is caught in a normative relation that it cannot sublimate unless its formalism receives a rational content from elsewhere.⁴⁰ In its formality, the moral will is the

³⁹ Cf. the following statements: "moral commandments, which regard the will in its ownmost subjectivity and particularity, cannot be an object of positive legislation" (GrI 213). The reason for this is that the *forum internum* of moral life is too subjective to be formed or changed by public powers. "The well-being of a state has an entirely different justification than the well-being of individuals, and the ethical substance, the state, has its *Dasein* — i.e., its right — immediately in a concrete — not abstract — existence. Only this concrete existence, not one of the many general thoughts that are seen as moral commandments, can be the principle of the state's action and behavior" (GrI 337R). "In big states, moral and religious motivations cannot be taken into account" (Wa 241). "The great interests of man, his true relations, lie in the sphere of *Sittlichkeit*. Those moral interests are no more than bits (*Abschnitzel*)" (Ilt 2, p. 459). However, morality is a constitutive element of family life (in which it is an aspect of love), the civil society (where it is a necessary condition for average decency or *Rechtschaffenheit* without which social life would not "work"), and the state (in which it takes the concrete form of a patriotic *Gesinnung* and the virtues that arise from it, such as concern for the common cause, obedience, courage, and selfless dedication. See below Chapters Eight through Ten.

⁴⁰ See also Ilt 3, pp. 337-338. Hegel thus incorporates Kant's moral formalism, under the name "morality," in his theory of *Sittlichkeit*. As the formal element of the ethical (or "right" in its broadest sense), morality is necessarily "empty" so long as it is not sublated into the ethical life that provides it with a content. See

appearance (*Erscheinung*) of an essence that is not yet deduced (§ 108).

As a non-sublated relation (and thus (as) an opposition) between its subjectivity and the double objectivity of the universal will and the world, the subjective will is a tension, and consequently an activity directed toward the overcoming of that opposition. It tries to realize its concept in which the opposition is already reconciled in principle (*an sich*, abstractly) though not yet in reality. Three aspects of this activity can be distinguished:

(a) The subjective will determines itself by differentiating itself into particular wants and purposes. Thus it provides itself with possible contents, but none of these can claim a right to realization; subjective self-particularization is wholly contingent.

(b) Since subjectivity is an infinite reflection into itself, it wills itself as realized in some objective reality. To make this possible, it must choose one of the many possibilities of its self-differentiation.

(c) The subjective will chooses and realizes a particular content as the end (*Zweck*) of its effective willing. The opposition between subjectivity and objectivity is thereby overcome to the extent in which the objectively realized content is identical with the internally represented content of the subject's choice.

Following this transition from the form to the content of the "process" through which the moral subject actualizes itself (§§ 106R and 107R), Hegel focuses on the relation of the subject to the content. This analysis is still formal, however, and focuses at least as much on the subject's activity as on its result. What Hegel is providing in §§ 108-109 is a deduction of the concept of action (*Handlung*, § 113). But why does he do this here? "Action" seems to belong to philosophical anthropology rather than to a theory of morality as part of right.

In placing an analysis of human action at the beginning of a consideration of morality, Hegel follows a tradition that reaches back to Aristotle. While the latter paid little attention to it in his work *On the Soul*, he dwelt on it at length in his *Ethics*. Many

Christoph Jermann, "Die Moralität," in *Anspruch und Leistung*, pp. 101-144, especially pp. 136-144 for a critical perspective; Allen W. Wood, "The Emptiness of the Moral Will," in *The Monist* 72 (1989): 454-483; and Daniel O. Dahlstrom, "The Dialectic of Conscience and the Necessity of Morality in Hegel's *Philosophy of Right*," in *The Owl of Minerva* 24, 2 (Spring 1993): 181-189.

philosophers have followed his example by placing their treatment of human action at the beginning of their practical philosophy.⁴¹ However, as we have seen, Hegel's practical philosophy does not begin in his *Rechtsphilosophie*, but rather in his analysis of subjective practical spirit, as summarized in Enc A 388-399 and the Introduction (§§ 4-28) of the *Grundlinien*. In the latter, all the questions and elements are present that are needed for a theory of action, and yet, in the *Encyclopedia* as well, the explicit mention and consideration of "action" is delayed until the chapter on morality (A 418-419; BC 503-504).

A comparison with Hegel's analysis of free will in his philosophy of subjective spirit (Grl 5-28, Enc A 388-399, B 469-481, C 469-480) shows that Grl 108-113 only makes more explicit what is clearly implied in the former analysis. To see this, it is important to realize that "morality" is taken here in a sense that precedes the difference between good and bad actions (§ 108R) and that the concept of "action" is not restricted to a juridical context, though it is certainly indispensable for a theory of imputability, guilt, exculpation, and so forth. Hegel's formal analysis leads to the conclusion (§ 113) that action is an activity through which a subjective will expresses itself by realizing an end in the world, while (a) knowing and willing this expression as "mine," (b) maintaining an essential relation to the *Sollen* imposed on it by its own concept of free will, and (c) being essentially related to the will of other subjects. (The third moment, in particular, is new with regard to the psychology, where intersubjectivity was not even

⁴¹ Aristotle, *On the Soul* III, 9-10 (432a15-433b3); *Nicomachean Ethics* III, 1-5 (1109b30-1115a). Cf. Aquinas, *Summa Theologica* I^a, II^{ae}, qu. 6-17; Christian Wolff, *Philosophia Practica Universalis*, Pars I, Caput I, *De Differentia Actionum Humanarum*, §§ 12-114. For Hegel's interpretation and judgment of Aristotle's analysis of action, see Su 19, pp. 221-223. Good studies on Hegel's conception of action are: Francesca Menegoni, *Sogetto e Struttura dell'agire in Hegel* (Trento: Verifiche, 1993), and "Elemente zu einer Handlungstheorie in der 'Moralität'" (§§ 104-128), in *Siep, Grundl*, pp. 125-146; Michael Quante, *Hegels Begriff der Handlung* (Stuttgart: Frommann-Holzboog, 1993); Miguel Giusti, "Bemerkungen zu Hegels Begriff der Handlung," in *Hegel-Studien* 22 (1987): 51-72; and Manuela Alessio, *Azione ed eticità in Hegel* (Milano: Guerini, 1996), who shows the unity of Hegel's philosophy of right from the perspective of human action, while stressing the fundamental identity of individual action and the public action of the state. See also Franco Chiereghin, "Über den tragischen Charakter des Handelns bei Aristoteles und Hegel," in Paul van Tongeren et al (eds.), *Eros and Eris* (Dordrecht: Kluwer, 1992), pp. 39-56.

mentioned). The justification of this definition is given in sections 108-109, which focus on the subject-object structure of the form, and sections 110-112, each of which explains one feature of the content.

It follows from § 109 (which deals with the subject as actualizing the content it wills as an external end) that the subject is aware of the identity of its *internally* chosen end and the *external* objectivity caused by it. The external objectivity and the externalizing activity itself are therefore “mine” in a sense different from but parallel to the “mine-ness” of property. I recognize and can claim my action as an expression of my selfhood or subjectivity (a of § 110 and α of § 113).

The second feature (§ 111, b; § 113, β) is already formulated in § 108, but as related to the content it is reformulated in § 111. A singular will cannot act if it does not choose to realize a *particular* content (§ 109). Which content it chooses, however, is not the issue in the preparatory analysis of action. At the same time, the subject’s will, insofar as its abstract concept or *an sich* is concerned, is identical with the universal will (reason as practical). Therefore, whatever it chooses to do, it is bound by its own universality to the *Sollen* that inheres in the difference between universality and particularity. In principle, the subject’s action realizes the subject’s own concept, including its rational universality or universal rationality. However, if the subject chooses a particular content that is irrational, it realizes a caricature or perversion of the concept that it is. The universal will together with its *Sollen* is then betrayed and perverted.⁴²

The third feature (§ 112, c; § 113, β) is surprising in a formal analysis of human action, although Kant and Fichte had already shown that intersubjective relations are fundamental for all human activity. According to Hegel’s logic of being, which we saw in operation on a lower level in the transition from individual

⁴² See also Ilting 3, p. 344: “We saw already [namely, in § 100] that the will, in doing something singular, expresses something universal, because it is the doing of a will as such. The content [. . .], as realized, must be mine; as will, it contains the determination of the will’s universality, because the will-for-itself is the infinite form, the infinite activity, and so the form that is ‘with itself’ (*bei sich*) and identical with itself, i.e., the universal. The content is therefore the content of the will as reflected in itself; this implies the determination of the universality or the content of the will.”

property to contract (§ 71), the objectivity acquired by a willing subject through the realization of its end (§ 110), implies, as an external singularity, other equally externalized and singular wills. The existence of one subject entails relations with other subjects. Action is interaction.⁴³

To help clarify the difficult and abrupt dialectic practiced here, Hegel refers to § 73, where the externalization of property, and therewith the reality of my will, is said to be impossible without relation to the will of another person. Should he not have referred instead to § 71 where the basic transition from property to contract is made?

There is, however, an essential difference between contractual relations among persons and the intersubjective relation characteristic of action. While the abstraction of right is expressed in *negative* orders (prohibitions and permissions, §§ 38 and 113R), moral action creates *positive* relations between acting subjects. Property separates (what is mine is not yours), but the ends of our actions can unite. Realized ends modify the world in which we live with others; not only are others affected by my actions, their actions and ends also affect *my* actions and the world, which, being common to many subjects, is not my exclusive realm.⁴⁴

⁴³ Cf. Ilt 3, pp. 346-348, where the transition from the externalized subjective will to the will of others is made very abruptly: "The external *Dasein* is the will that, as subject, becomes external; [thus] a subject is generated. I receive my subjectivity therein as object; but thereby it [scil., my subjectivity], as exterior, becomes another subjectivity for me, another will" (p. 346). Hegel repeats this argument at least four times in this lecture. Do only his students doubt its validity or does he himself question its soundness? "Therein, that the will, as subjective will, expresses itself, it is posited that the will presents itself as another [will] against the subject" (p. 346). "By expressing myself, I sublimate my subjectivity as merely *this*. In morality, we have thus the *Aufheben* of the *this* of subjectivity; this implies that another subjective will emerge" (pp. 346-347). "The objectification [of the will] has simultaneously the determination in itself that the singular will, in its objectification, sublimes itself. Thereby [. . .] two wills and their positive relation to one another are posited" (pp. 347-348). See also Ilt 4, p. 309.

⁴⁴ Cf. Ilt 3, p. 345: "With regard to right, we said that it only contains prohibitions (*Verbote*), that the strictly juridical *actio* [*Handlung*] has a merely negative determination with regard to the content of the will of others. In the moral [sphere] the determination of my will in relation to the will of others is positive"; and p. 347: "In right I exclude the others [. . .]; I always relate in a negative way. In the moral will this atomistic [structure] disappears, while a positive reciprocity of will to will emerges."

By “deducing,” in § 112, positive relations (and commands) of intersubjectivity from the preceding sections, Hegel elevates the interpersonal structure to a higher level than that of abstract right. Both contractual and moral intersubjectivity are essential elements of familial, civil, and political life. But within the chapter on morality little use is made of the thesis that all actions have an intersubjective aspect. In §§ 125-126 and 134 this thesis plays only a secondary role and we must proceed to *Sittlichkeit* to discover its real import. Yet Hegel notes several times that the adjective “moral” (*moralisch*) is often used as a synonym for altruistic activities.⁴⁵

The analysis of the “content” of action (§§ 110-112) concentrates on its subjective side, but since subjectivity always implies objectivity (cf. §§ 25-26), Hegel adds to the last section of the analysis (§ 112) a Remark on the objective aspects that correspond to the three aspects of the subjective will analyzed in §§ 110-112. Though the Remark does not add new insights, Hegel anticipates here more explicitly than before the idea that morality, as the finite appearance of an as yet unfolded essence, is a conglomeration of contradictions that cannot be resolved (or euphemistically: that can be resolved “only relatively”) within its own dimension (§ 112 R).⁴⁶

Hegel’s retrieval of the traditional treatise “On human action,” as contained in §§ 108-113, is not used by him to generate an ethics, but it introduces some questions about the subject’s rights that are answered in the first half of the chapter (§§ 115-120), and it prepares the chapter on ethical life, in which the institutions of objective spirit will be shown to be human due to their being brought to life by the action of moral agents.

⁴⁵ For example, GrI 126 & R (to strive for others’ well-being “is called a moral intention”); Wa 73; Ilt 2, pp. 453-454 (marginal note on GrI 125); Ilt 4, p. 338; GrI 242 & R (where morality is synonymous with *Mildtätigkeit* and charity with regard to the poor); GrI 207; Wa 137; and GrI 337 & R.

⁴⁶ Rather than Hegel’s own references to §§ 109, 112, and 110 (GrI 112 & R), the three moments — α) external *Dasein*, β) agreement [or disagreement!] with the concept, and γ) universal subjectivity — refer instead to §§ 110 (a), § 111 (b), and § 112 (c).

Division (§ 114)

Parallel to the right of a person to own property, a moral subject has the right to own his or her actions. Everyone must respect this right by recognizing and honoring the self that has chosen to act as it does. Three aspects of action are distinguished in order to justify the articulation of Hegel's chapter:

(a) Completely abstracting from any content, we must respect any action as owned by the singular subject that expresses itself in it. The *Dasein* of freedom lies here in the subject's purpose or project or plan (*Vorsatz*):⁴⁷ that an action realizes a purpose shows that it is done by a self-determining subject (§§ 115-118).

(b) Because an action originates in the interiority of an intended content, it is the intention (*Absicht*) that must be respected: the action realizes a specific plan of action; a subject has the right to make plans, whether they are good or bad; if they are bad, the subject is honored by a just punishment; if they are good, the subject must be praised or even rewarded. A subject can intend many different contents suggested to it by various drives and inclinations (§§ 119-120, cf. §§ 11 and 14), but whatever one chooses to do, one cannot avoid intending a general form of satisfaction that puts an end to the many conflicts between those inclinations. In the philosophy of subjective practical spirit, this general satisfaction is called happiness (*Glückseligkeit*), while in the context of "right,"⁴⁷ it is called well-being (*das Wohl*).⁴⁸ What a subject imagines and intends as happiness or well-being can be a morally good or bad goal, but the intention of acquiring well-being must be respected as a right of any individual (§§ 121-128).

(c) As *Dasein* of the concept of free will, the subject is in principle (*an sich*) oriented toward the actualization of the will's rational universality. The moral name for this content is "the good" (*das Gute*, §§ 129-134). However, the subject can miss the target that is inscribed in its own concept. As conscience it can pervert the good and replace it with evil (*das Böse*). But even so, it

⁴⁷ "For example, to build a house" (Su 4, p. 217).

⁴⁸ Hegel here pursues the problem that Kant had formulated in terms of an antinomy between *gut* and *wohl* or the good (*das Gute*) and happiness (*Glückseligkeit*). In Hegel's terminology, *Glückseligkeit* seems to have a more subjective meaning than *Wohl*. See also note 56.

has a right to be evil, although the appropriate answer to objective injustice lies in a punishment that honors the perpetrators by applying to them their own perverse law (§§ 135-140).⁴⁹

Unfortunately, this division of the moral will confuses more than it clarifies. The principle on which it is built vaguely suggests the three moments of the concept, but it is rather obvious that its tripartite structure scarcely masks a two-part division, whereby the first (§§ 115-120) and the second part (§§ 121-140) divide the middle part of the tripartite structure in two (§§ 119-120 and §§ 121-128).⁵⁰ Sections 115-120 present Hegel's succinct version of the traditional treatises on responsibility and imputability, retrieved here in light of a judiciary perspective that will only be introduced one hundred sections later (§§ 219 ff.). The reader, eager to hear about moral philosophy, must wait until § 121 to be confronted with fundamental questions concerning conscience and the good. To these, only twenty sections (§§ 121-140) are dedicated.

Furthermore, the promise made in § 114 is not kept. Not only does Hegel not present a fundamental ethics, he also fails to provide a complete theory of the moral will's rights. Instead of systematically unfolding a theory of the rights that follow from the moral subject's right to actualize itself through its own actions, Hegel restricts his consideration to three other, rather diverse, questions:

(1) the question of the imputability of actions that can cause damage;

(2) the question of whether individuals not only have the right to own property, but also have the right to secure their concrete well-being (§§ 121-128); and

(3) the question of whether and, if so, how conscience and the good can determine one another (§§ 129-140). Only here does the reader find some rudiments of a moral philosophy — though surprisingly little about the "right of morality" — but it is so little that disappointment is inevitable. No attention is paid to feelings of guilt or remorse, conversion, or the inner struggle of individuals

⁴⁹ See Chapter Five and Ilt 4, pp. 311-312 and 3, pp. 349-350.

⁵⁰ Grl 114 seems to me an example of Hegel's almost obsessive urge for triplicity. See also Jermann's criticism of the composition of this chapter in his *Anspruch und Leistung*, pp. 103, 128-144.

seeking to acquire a refined conscience and purified drives,⁵¹ and very little is said about responsibility, merit, reward, praise, moral satisfaction, and so forth. The absence of these issues seems to indicate a considerable disinterest (or even aversion) with regard to questions of inner life, though some additional aspects of morality — albeit very few — are touched upon in his philosophy of religion.⁵² A major reason for the signal poverty of his moral philosophy lies in his decision to confine its treatment to the framework of the spirit's objectivity. As a singular, subjective, and subordinate element of nationalistic politics, morality has lost its prophetic and properly spiritual eminence. The average virtue of civil decency (*Rechtschaffenheit*) has replaced the norms of Greek beauty and Judeo-Christian holiness.

Imputability (§§ 115-120)

Sections 115-120 present a hasty retrieval of traditional considerations about responsibility before the law. Indeed, Hegel's treatment is extremely general and poor. He spends little time on the distinction between moral and juridical aspects of imputability and seems to be utterly uninterested in the extensive literature about the subject.

From the outset he focuses on guilt (*Schuld*, § 115), in the rather juridical sense of the word, neglecting all questions of merit. His question is: Can an individual be exculpated from damages caused directly or indirectly by his actions without his knowledge and intent? The question is thus not about the subject's right as such, but rather about a negative kind of right — a right *not* to be treated as the will behind certain damaging events. The answer to this question has always been sought in the difference between a deed (*Tat*) and an action (*Handlung*, § 115). The deed *causes* an effect it does not *intend*, while the subject of an action knows and wills the effects of what it does. The traditional theory of human action distinguishes the intended object or end from the circumstances of the action (§ 115) in order to answer

⁵¹ The demand that the drives should be purified is briefly mentioned in Grl 19 & R.

⁵² Some hints can be found in Su 17, pp. 126-135, 282-284, and 299-306, but the issue of religious *praxis* receives very little attention from Hegel.

questions like the following: Am I responsible for damage caused by my property? (§ 116) Am I accountable for a course of events triggered by me, but which I did not expect or intend? (§ 117) For example, am I guilty when a fire I create spreads to many houses, or when hunting, I kill someone behind a bush, whom I took to be a deer? (Wa 64) Am I responsible for all the consequences of my actions? (§ 118) Similar questions are posed and answered by Hegel in the most simple way. You are responsible insofar as you have knowledge of the harmful consequences of certain actions, events, or habits of your property, and have control over them, yet still will them, because that knowledge and intention makes them yours. Only that which lies in your purpose (the internal representation, which you actualize in the external world) makes you responsible for the damage caused.⁵³

As noted above, the background of Hegel's questions is the court: the judge can hold an individual accountable *only* (*nur*, §§ 116, 117, and 118) for actions and effects that the actor intended. The subject, therefore, has a right to be exculpated for unforeseen and unintended occurrences. It is strange and misleading that Hegel here uses the expression "the right of knowing" instead of directly highlighting the right of exculpation in cases where the subject can prove that it did not know the consequences of its action.

Many traditional distinctions and discussions are missing from these sections, for example, the distinction between "not knowing" and "not being able to know." Apparently, Hegel is not interested in developing a complete theory of his own. His main purpose seems to lie in outlining a few basic consequences of "the principle of subjectivity" (§ 124R) with respect to questions of imputability. One hint in this direction is found at the end of § 118R where he opposes the distinction between *Tat* and *Handlung* to the ancient

⁵³ The distinction between deed (*Tat*, *actus hominis*) and action (*Handlung*, *actus humanis*), the latter of which includes (self-)consciousness, knowledge, and free will, is relevant for morality, but not for *abstract* right (including criminal law, cf. § 96R) because abstract right is not essentially linked to the *forum internum* of the person's conscience. In the ethical dimension, and especially within the framework of civil society, the moral aspects of behavior are important because ethicality is the synthesis of (abstract) right and morality. Here (in §§ 115-120) Hegel implicitly anticipates the ethical framework in which the judiciary plays a crucial role. See also note 39.

conception according to which a tragic hero like Oedipus is deemed guilty of all the objective consequences of his deeds.⁵⁴

Sections 119 and 120 continue the problematic of §§ 115-118 by focusing, from the same perspective, on the general character and the qualitative differences of actions. The particular end or content (§ 114b) of an action is not a single aspect, but an integral part of a coherent whole. An insignificant detail can, for instance, trigger a killing or a robbery. The right of the subjective will implies that it should be aware of the general quality of the ends it pursues. Out of respect for the subject's intelligence, a judge may presume that he or she has indeed such an awareness. Again, Hegel uses a strange expression, "the right of intention" (§ 120), in order to state that the subject must be held responsible for having intended the entirety of the effect, insofar as this effect is *necessarily* connected to the action. He even speaks of "the right of the objectivity of the action" (§ 120) as if physical events could have rights. Retrieving the traditional distinction between the end as intended by the subject (*finis operantis*) and the end that necessarily follows a deed (*finis operis*), he metaphorically opposes the latter as an accusing power to the subject, who, as a thinking and freely willing subject, must be held responsible for that result.⁵⁵

Well-Being (§§ 121-124)

The caesura between § 120 and § 121 cannot be bridged by the strange transition that is attempted in § 121 from "the *universal* [and objective] quality of the action," (which was introduced in § 119 and is in fact a *particular* content, such as murder, etc.) to the *particular* subjective content, "which is the determining soul of the [subject's] action" (§ 121). In fact, a very different question comes to the fore in § 121: To what extent does an individual have a right to receive satisfaction (*Befriedigung*, §§ 121 and 124), well-being (*Wohl*, §§ 123 and 125), and happiness (*eudaimonia*, *Glückseligkeit*, § 123) through his or her actions? Further on (§§ 129 ff.), Hegel will introduce the good (*das Gute*) and discuss the Kantian question of how well-being (*das Wohl*) and the good (*das Gute*) are related.

⁵⁴ Cf. Ilt 4, pp. 318-323.

⁵⁵ Cf. Ilt 3, p. 370.

Before doing this, however, he opposes well-being to (abstract) right (§§ 126-128) in order to deduce the good as their synthesis (§ 129).

The will of an individual intends a particular end that does not necessarily fit into the objective situation in which the individual finds him- or herself. Hegel's philosophy of subjective practical spirit has shown that the possible ends of individual willing are suggested by the sensible inclinations (Kant's *Neigungen*, Aristotle's *pathē*, or the scholastic *passiones*, cf. § 123 & R). Since these inclinations conflict with one another, the individual must harmonize them as components of an empirical generality: happiness or well-being.⁵⁶ Each individual aims at his own happiness, as Aristotle stated.⁵⁷ And as Kant wrote, humans are driven by a "naturally necessary desire for happiness."⁵⁸ There is nothing wrong with this desire and it cannot be abolished, but it is neutral with regard to moral qualifications. The question Hegel raises in § 121 is then: Does a subject have a right to well-being, general satisfaction, happiness?

It is important to see how such a right, if it exists, differs from the right to property, as determined in the first chapter. Abstract right does not include any specific content except the very abstract right of owning some property. If you possess it, you are justified in defending and exchanging it; if you possess nothing, you may occupy what belongs to no one else or earn property by working for someone who can pay you. "Right" (i.e., abstract right) does *not*, however, include any specific right to this or that possession — except one's body and spirit with their inherent talents — and it certainly does not include any *positive* right to be fully satisfied, happy, comfortably established, etc. Even if we interpreted property as a positive right (and duty) to manifest one's freedom by owning external goods, it would not immediately follow that this

⁵⁶ The coincidence of *Wohl* (well-being) with *Glückseligkeit* (happiness) is clear from Enc C 505: *Wohl* is morally justified *happiness*: "Happiness is different from well-being only insofar as the former is represented as an immediate *Dasein*, while the latter [is represented] as justified in relation to morality."

⁵⁷ *Nicomachean Ethics* 1094a1-3 and 1095a14-21.

⁵⁸ *Grundlegung der Metaphysik der Sitten*, Ak IV, p. 415 ("According to a natural necessity, all humans intend happiness") and *Metaphysik der Sitten*, Ak VI, p. 386 ("One's own happiness is an end which all humans have because of the impulse of their nature").

right includes a right to be happy. But Hegel has clearly stated that abstract right does not include any positive imperative; it is merely prohibitive and it cannot be appealed to as a right to own something if nothing is available. It does not encompass any right to social security or health care, for example (§§ 35, 37, 49 & R).⁵⁹

The question treated in §§ 121-124 concerns the natural and inevitable desire for finding personal satisfaction in our activities. Is this a legitimate desire? Do we have a right to strive for well-being in all that we do? From the perspective of the agent, we must say that it is precisely the expected satisfaction that makes the intended action interesting. It constitutes its "subjective value" (§ 122). This subjective interest does not necessarily preclude or oppose the objective value that the action may also have, e.g., for political or religious goals. Objective value and subjective interests are two sides of the same action; they cannot be played off against one another. Since we are now focusing on the will of individual subjects from the perspective of their right, we must state that they have the right to pursue their own interests in doing what they do.⁶⁰ As we have already seen (§§ 17-20), these interests emerge from the subject's natural needs, inclinations, passions, whims, etc. (§ 123 & R). Consequently, the agents have the right to pursue their inclinations, and they have the right to strive for happiness (§ 123), by seeking, for example, recognition, honor, or fame (§ 124).

From the principle that the free will, in all its moments, must (*soll*) actualize itself, it follows that this right (*Recht*) is also a duty (*Pflicht*).⁶¹ This consequence, though not clearly expressed in the

⁵⁹ According to Ilting (in *Materialien* 2, p. 74, note 9), Hegel affirms the social obligation of property in GrI 46, 49, 200-201, 249, 255, 289-290, and 303. However, I cannot discover any enthusiasm on Hegel's part for social welfare beyond corporations and some care for the very poor. See below Chapter Nine.

⁶⁰ The right to pursue one's own particular interests is the fundamental manifestation of the principle of subjectivity, which separates modernity from the ancient world. See above and § 123R. The reference to the time of Croesus and Solon at the end of § 123R is explained in the *Philosophy of History*, Su 12, pp. 186-187.

⁶¹ Herein lies an important disagreement with Kant. Cf. *Metaphysik der Sitten*, Ak VI, pp. 385-386. The quote given in note 58 continues: "[though all humans intend happiness,] this end can never be considered a duty without contradicting oneself. What one already inevitably wills, does not belong to the concept of duty, because this is a *coercion* to an end that one has accepted reluctantly."

book, is implicit in § 37, where Hegel excludes the particular moment of the will (and thus various “desires, inclinations, contingent wishes [. . .], particular interests [. . .], my well-being,” and, in general, all particular determinations, insights, and intentions) from the dimension of abstract right. However, the duty to take care of one’s own well-being is clearly stated in the course of 1824-25:

The ensemble of inclinations, needs, drives, etc., is well-being (*das Wohl*). One is allowed to satisfy one’s inclinations and, in general, to take care of one’s own well-being. It is not only allowed, but also necessarily, a duty. Nobody should be blamed when making one’s well-being into one’s project. It is a different question that someone’s well-being can conflict with ethicality or abstract right. But taken by itself, it is necessary, even a duty and essential, that I foster my well-being (Ilt 4, 332).

The criterion for deeming actions good or bad lies in the perspective of their objective (e.g., ethical) value: are they directed toward rational ends? Whether or not these ends are pursued by ambitious or greedy persons does not take away their value. To demand that behavior should not be motivated by subjective interests is to ignore the very concept of human action, and to depreciate the achievements of great men or women because of their subjective interests is the sign of a petty mind (§ 124R).

Hegel’s conclusion is massive:

What the subject *is*, is *the series of its actions*. If these form a series of productions without value, the subjectivity of the willing is also without value; if, however, the series of his actions is substantial in nature, then the inner will of the individual, too, is substantial (§ 124).

Again, Hegel seems to be seduced by his polemic against subjectivism. Though maintaining that the true criterion lies in the rationality of the action, he seems to deny even the possibility of a difference between the objective value and the value of subjective motivations.

In the course of 1822-23 he is somewhat more subtle:

Certain subjects aggrandize themselves by ascribing great and good goals and excellent intentions to themselves or by actually having them. If the intention indeed is great and valuable, while the real action is insignificant, the internal [side] is excellent and the external [side] paltry; this then manifests the subject’s inability

to realize what is in it. For I am actual only by transposing the good that is in me into objectivity. *In magnis voluisse sat est* [In great things it is enough to have willed them] has the correct meaning that one must will something great; but it incorrectly seems to deny that one also must be capable of accomplishing great things, [because] otherwise the willing would be void.

Through such distinctions the perspective is distorted with regard to judgment about oneself and others. It is pleasant to rest on the laurels of one's willing, but these are dry leaves that have never been green. Only what has been accomplished is the human subject (*Nur das Hervorgebrachte ist der Mensch*). The actual subject (*der wirkliche Mensch*) is the series of his deeds. If the ensemble of his deeds is no good, the human subject is no good. The internal and the external must be kept together in this identity (Ilt 3, 392-393).

Hegel does not allow for much differentiation. But how can this identity of interiority and exteriority be maintained in light of the contrast between the idea of a rational state, culture, and history, on the one hand, and its deficient actualization, on the other? Could the ethical situation, for instance, ever be ameliorated if there were no subjects whose projects transcend the possibilities of the present? Is not Hegel's own philosophy of the state a clear example of intentions that neither he nor others were capable of actualizing in 1820 or even afterwards? His reticence with regard to all *Sollen* and his hatred of self-congratulatory moralism do not justify a complete identification of the heart's true desires with the course of the world. One would overshoot the target by identifying morality as the interior of ethicality. If right and morality (including personal freedom, conscience, and subjective happiness) are *entirely* absorbed by "the *well-being* of the state," which is the "universal best" (§ 126R), there is no other hope or honor than to obey the factual government or heroically achieve a revolution that will certainly not yield a better state immediately. The choice is then between a mediocre bourgeois existence or a tragic one.

Part of Hegel's polemic is motivated by his contempt for the "psychological valet" whose portrait he had provided in the *Phenomenology of Spirit*. For the valet there are no heroes because he concentrates on the subjective aspects of the hero whom he serves.⁶² Another discussion is more important, however. By

⁶² GW 9, p. 358: "For the *Kammerdiener* there is no hero; not, however, because the former is no hero, but because the latter is . . . the valet with whom the hero

quoting a distich in which Schiller had parodied Kant's ethics, Hegel seems to suggest that his own critique of subjectivism in §§ 121-124 is also directed against Kant. But does he indeed refute Kant's moral philosophy? The Remark on § 124 begins by clearly stating that the subjective perspective (or the principle of subjectivity) is the basic and fully legitimate principle of modernity. Second, and more important, Kant never condemned subjective interests or an overall striving for happiness. His formalism clearly *includes* the inevitability of all natural desires and inclinations and his formal criterion for the distinction between good and bad actions *does not condemn but tests* the *rationality* of the various configurations of those inclinations. The moral criterion is not a thing or a truth, but a *form*; it cannot be played off against, but only "(in)form," the dynamic *material* of human nature. In his youth, Hegel took Kant to be a dualist, but closer study must have convinced him of his mistake. His later critique of Kant's "empty" formalism is not directed against the formality of Kant's fundamental categories — Hegel retrieves them in his own moral theory — but against the lack of a rational deduction that shows how the moral form yields an ethical content. Hegel's acceptance of Kant's formal analysis as the basic element for any ethics would be inconsistent with a dualistic interpretation of the philosopher whom he, as a young man, had called "the Moses of our nation."⁶³

"Moral"

In his course of 1822-23, Hegel points out that the words "moral" (*moralisch*) and "morality" in his time are used mostly for questions of intention (*Absicht*) and motivation (*Beweggrund*), like the one treated in §§ 121-124.

Especially in recent times, "moral" (*das Moralische*) refers to the motivation, according to which the subject satisfies itself in the action [...]

Formerly the [main] question was: Is someone upright (*recht-schaffen*)? Does he accomplish what is right in his relations, [i.e.,] what fits into them? However, a further question asks about the

has to do not as a hero, but as eating, drinking, putting on clothes, and in general in the details of needs and representations."

⁶³ See *Le jeune Hegel*, pp. 28-92 and 144-161.

intentions for doing the right thing. This has also been called: to look at the human heart. The latter [perspective] presupposes a breach between the objective [side] of actions and the subjective [side] of the motivation, the interior. It is this separation mainly that nowadays is called "morality . . ." (Ilt 3, 374).

From § 121 on, Hegel concentrates on the "moral," i.e., the internal and motivational, aspects of human activity. After clarifying the formal aspects of subjectivity in §§ 105-120, the particular interests are now considered — but still in a very formal way, similar to the way in which they were treated in Hegel's theory of subjective spirit and Kant's second Critique. Precisely *which* specific interests are legitimate within the concrete world of *Sittlichkeit* cannot be determined within the horizons of morality, however. Here only formal determinations are possible. Hegel's treatise on morality is his version of Kant's formalism, while his chapter on *Sittlichkeit* parallels Kant's *Metaphysics of Morals*.

The Dialectical Relationship of Right and Well-Being (§§ 125-128)

The introduction of well-being (*das Wohl*) in §§ 121-123 is reminiscent of Kant's opposition of *gut* and *wohl* or *das Gute* (the good) and *Glückseligkeit* (happiness), as explained at the beginning of Kant's "Dialectic of pure practical reason" in his *Kritik der praktischen Vernunft*. Hegel's analysis of the opposition between *Recht* (i.e., abstract right) and *Wohl* (well-being) in §§ 125-128 can be seen as a retrieval of that dialectic. Right then represents Kant's *good*, while well-being, (which, as the demand of the moral will, represents morality) stands for happiness. Even though "morality," in this contrast with (abstract) right, takes — in a very un-Kantian way — the side of happiness, the structure of Hegel's argument shows clear parallels with Kant's solution of the dialectic of practical reason. The main difference here between Kant and Hegel lies in the secular, non-eschatological character of Hegel's synthesis.

Hegel agrees with Kant's thesis that the good is the "restricting condition of our striving for happiness,"⁶⁴ but he avoids all dualistic terminology by insisting that striving toward happiness is

⁶⁴ *Kritik der praktischen Vernunft* (KpV), Ak V, pp. 107-113.

also a right, which, though different from the abstract right clarified in his first chapter, must be integrated with this abstract right in a higher totality. This totality must be produced in this world and not only postulated as an eschatological gift.⁶⁵ The good itself must include the finite dimensions of right and happiness, whose concrete synthesis remains contingent if it is not secured by a higher dimension of freedom. In §§ 103-104, morality was deduced from the impossibility of preventing or overcoming injustice within the limits of abstract right; now we must discover that morality itself, though certainly a condition for effective justice, can solve neither its own problems nor those of *Unrecht*.

Hegel's strategy follows the usual pattern: having defined and distinguished the specificity of (abstract) right and (the right of) well-being, he tries to show that their opposition is in fact a reciprocal implication that hides a more fundamental unity. The good is the synthesis in which right and happiness are reconciled. In concreto this means that the state must guarantee the realization of both as integral elements of ethical life. As we will see in Chapters Nine and Ten, it accomplishes this mainly through its support for these institutions of the civil society: the judiciary, corporations, and "*Polizei*."

It is only in the state that the right and the particular ends of the individuals must be and are reconciled; in it both come into their own. If [it is said that] the state must only take care of the property of its citizens, then a restricted definition of the state is given, for it is its task to also be concerned about the well-being of its citizens [. . .]. A society must protect the right of property. However, when it is ruled by this alone, its situation is only unilateral" (Ilt 4, 399-400).

The argumentation of GrI §§ 125-128 is tricky and demands critical attention. It proceeds in various steps, each of which raises its own problems.

In the first step, Hegel specifies the relation of the singular subjects, who attempt to realize their well-being through particular actions, to the universal will. The universality of this will, as it is *an sich* or according to its abstract concept, has been determined in two directions: (1) as (abstract) right of personality and property,

⁶⁵ As Kant does (KpV, Ak V, pp. 122-132).

and (2) as any subject's right to well-being. Both rights are universal. However, though Hegel, in §§ 114-124, did not pursue what he said in §§ 112-113 about the intersubjective character of right, Hegel now (in § 125) explicitly states the universality of the right to well-being. The essence of subjectivity implies that its end and its right include the well-being of *all* subjects. He thus has deduced a second basic duty of the moral will: it is an end (*Zweck*) and a right of all individuals, and consequently (though he does not say it here explicitly) it is a basic duty to will and work for the happiness of all subjects — at least if the moral will is not restricted to prohibitions, but also imposes positive and active forms of respect.

Two sentences in § 125 and one sentence in § 134 are the only ones in this chapter that express concern for the well-being of others. Intersubjectivity plays no role in the further argumentation — in fact, it disappears altogether — and the relevance of concern for *all* humans, already contained in the right of subjectivity as such, is immediately restricted and partially suppressed. After declaring that the relation to the universal will, as posited in the particularity of the subjective will, "is [. . .] the well-being of *all* [subjects]," Hegel immediately writes: "The well-being of *many other* particular [subjective wills] in general is therefore the essential end and right of subjectivity" (§ 125). No justification for this change is given, but Griesheim's notes provide an empirical reason that apparently accounts for the logical mistake:

The well-being of all is an empty word. To begin with, dead and future [individuals] must be subtracted, of course. It regards therefore only those who live [now] with us (*die Mitlebenden*), and how could I ever foster the well-being of the Chinese [. . .] etc.? Holy Scripture is more rational when it says: Love your neighbor as yourself, i.e., [love] the individuals with whom you are or become related. "All" is an empty bombast, which must aggrandize the image (Ilt 4, p. 338).

The Scriptural conception of charity, to which Hegel refers as a religious expression of human individuals' universal right to well-being, is indeed entirely absent from Hegel's theory of international right: apparently, he considers concern for *all* humans an irrational wish. As I will argue in Chapter Eleven (on international law), humanity is not a basic concept of Hegel's practical philosophy. His gloss on Christian love even seems to suggest that it

cannot extend beyond the circle of one's immediate relations. A broader extension, not of love, but of solidarity, must be found in the corporations and the administration of care for the poor that are treated in the chapter on civil society; but real charity is for Hegel a marginal subject on which he does not wish to dwell.⁶⁶ Though Hegel insists that concern for one's own and others' well-being is constitutive for morality, he hastens to confine it within narrow limits:

The proper place of morality is this sphere [scil. the sphere of the *Stand*], which is governed by the reflection [of the individual] on his actions, the end of his particular needs and his well-being, while the contingency of his satisfaction imposes also contingent and individual help as a duty (§ 207R).⁶⁷

Noting that the universal right to well-being is what is mainly meant when people speak about "morality," Hegel rejects it as a secondary or tertiary topic not to be developed in a treatise on the principles of ethics:

Its further development belongs to the field of edifying [considerations] and a further moral treatise (Ilt 4, p. 338).

Similarly, in one of his marginal notes he states:

The significant [issue] belongs to the ethical, universal life [. . .]. The great interests of humans, their true relations lie in the sphere of ethicality. These moral interests are only fringes (*Abschnittel*) (Ilt 4, p. 459).

⁶⁶ Hegel mentions love in three contexts: the family, philanthropy, and religion. His primary focus is on the family, within which love, according to his view, causes a fusion of the members (see below, Chapter Eight). *Philanthropie* and "universal love of people" (*allgemeine Menschenliebe*) are mentioned in GrI 337 and Su 4, pp. 270-271; they are given only a marginal role. Cf. GrI 242R and Ilt 2, p. 453. In his courses on religion (but never in the *Encyclopedia*) Hegel dwells at length on the love of and for God, but rarely on the love for other humans. When he does focus on the latter, he immediately restricts its scope. See Su 17, pp. 303-305 and 329-333; *Vorl* (Religion) 5, pp. 53-54, 74-78 and 149-150.

⁶⁷ Cf. GrI 37, where Hegel excludes the particular needs and contingent wants from the dimension of abstract right. With regard to the right to life, see also §§ 42R, 43 & R, 47-48, 66, and 67. On the level of abstract right, it is a negative right: Do not kill or harm a person! The moral right to well-being is positive: Take care of yourself! The transition between the two is made when an individual takes possession of his mind and body.

In another manuscript note, he can hardly hide his impatience with the subject:

With well-being we have arrived at a very quiet, so to speak, private-bourgeois situation. [Well-being is] not the best [thing] of man, not that which corresponds to his definition. Happiness — there is a specific boringness (*Langeweile*) in these words *Wohl* and *Glückseligkeit* — because of the indeterminate, shallow reflection (Ilt 2, p. 453).

And in some passages of the *Grundlinien*, Hegel relativizes the moral principle just formulated so much that he seems to deny it:

That all humans must have sufficient livelihood is [. . .] a moral and, in this indeterminate formulation, well-intentioned, but [. . .] non-objective wish (§ 49R, cf. § 337R).

In any case, it should be clear that a moral right to well-being cannot involve the state. It permits and obligates private individuals to take care of their own and their neighbors' satisfaction, but it does not demand any action on the part of the government. "Since moral commandments concern the will in its ownmost subjectivity and particularity, they cannot be the object of positive legislation" (§ 213R). However, we will see that the corporations and the *Polizei*, as institutions of civil society, must provide subsistence for people in need. They form a kind of semi-public dimension between private morality and politics.⁶⁸

In § 125 an antinomy between abstract right and morality is broached, which cannot be resolved within the limits of morality: the antinomy between the empty and negative demands of property right and the universal right of individual well-being. At this stage of the conceptual development, no specific right or duty has been deduced from the right to realize one's own and all others' happiness, but this emptiness runs parallel with the indeterminacy

⁶⁸ If it is only a subjective wish (*Wunsch*), how then can the (abstract) right of the moral (aspect of the) will become a concrete right within the framework of civil society and state? The text of § 242 & R states that poverty and manifold needs demand (*erfordern*) morally motivated care and charity in response to the contingencies of the social situation; but it also stipulates that all private charity should ideally be replaced by public institutions and regulations. "The public situation must be considered [. . .] the more perfect the less it leaves for individuals to do according to their particular opinion."

of property right. Neither includes specific contents, but both are basic to the concrete actualization of freedom. If each individual, as personal *Dasein* of the universal will, is justified and obliged to materialize his personality in property, each individual is equally justified and obliged to express his subjective freedom by manifesting his essential orientation toward self-realization through happiness and benevolence. The right to well-being does not prescribe a *particular* achievement, because "happiness" is as vague as "property," and a particular way of life is *as* contingent and debatable as a particular property. Since both the right to property and the right to well-being are essential to the realization of freedom (i.e., free will in all its dimensions) both must become concrete: all people must be allowed to own property and all people have a claim to well-being. However, abstract and moral right can conflict with one another, for example, when all available property is in the hands of a few while others cannot find employment and do not receive enough welfare. How can such conflicts be resolved?

Hegel, along with most of his contemporaries, sees property right as the most fundamental and inviolable of all rights — he even calls it here "das Recht" without qualification — because only property empirically realizes one's personal freedom. As we say in Chapter Four, he does not deduce from this thesis that all individuals must *receive* property if they have no means of acquiring it and insists on the prohibitive character of abstract right. In § 125 he denies that a moral right to well-being could force us to correct that first thesis. If justified claims to well-being conflict with actual ownership, they must be given up. So long as the strict justice of abstract right and the moral will of needy individuals are the only factors, the latter cannot justify any infringements on the former, because property actualizes a person's freedom as such, while well-being is the unfolding of freedom in the form of particular satisfactions. The fact that persons without property are hardly free does not seem to bother Hegel at this stage of his reflection. However, in § 126R, he warns the reader that all his considerations are still abstract and therefore revisable in later parts of his work. The perspective from which he speaks is that of a *formal*, private, and merely prohibitive right to property (without any consideration of the content and distribution of available goods) on the one hand, and the private right of individuals to a particular well-

being, on the other. Once the perspective will has changed that of the public good, i.e., the well-being of the state as the concrete actuality of the spirit, abstract right as well as moral claims to individual happiness will appear in different light, which will justify a better understanding of their subordinate importance.



Having prepared a contrast between property right and the right to well-being in § 125, Hegel takes a second step in § 126 by pointing out that the subject itself is caught in a contradiction between its freedom as expressed in (abstract) right and its right to pursue its happiness. A moral intention, even if it is motivated by the happiness of other subjects, cannot justify a transgression of established property. "Right, as *Dasein* of freedom, is an essential determination against the moral intention" (Ilt 3, p. 399). Hegel's position is rooted in the evaluative and normative difference between freedom and happiness, as explained in the theory of subjective practical spirit. He does not, however, accept Kant's merely religious solution for the dialectic that ensues from that difference. Freedom and happiness must be reconciled on earth and within the history of human behavior and enjoyment.

In § 126R, Hegel summarizes his position, the core of which has not changed since his extensive discussion of moral world visions in the *Phenomenology of the Spirit*. He rejects the possibility that the factual distribution of property and well-being by itself may constitute an injustice, and attributes all attempts at remedying the situation, at the cost of established rights, to irrational, immoral, and unjust motivations, such as a compassionate but unjust heart, sentimentalism, misguided enthusiasm, or other preferences for the particular over the universal. Literary expressions of this kind of immoralism, such as Schiller's *Die Räuber* (1781) or Kleist's *Michael Kohlhaas* (1810) show that their authors have not understood Kant's refutation of all emotional resistance against right (§ 126R).

Hegel is not blind to the hardships that follow from conflicts between right and morality. As we will see in Chapter Nine, he has paid considerable attention to the issue of poverty. With regard to the moral aspects of the problem, he declares, however:

A true reconciliation cannot be found in this region of particularity, because it is here where inequality has its rights and place. We talked about a case in which the promotion of others' well-being violates right. There you will find a great deal of emotional preference for well-being over right, as novels often picture it beautifully. The happiness of individuals is [then] destroyed by the law. This happens also in the ordinary life where, despite considerable *Bildung*, there is such an *unspeakable* amount of unhappiness. It would be possible to abolish the misery of many with few means, but these are the free property of others. So we see the struggle of misery (*Not*) and next to it the means that could abolish it. However, both are separated by an insurmountable abyss. This abyss is the right, whose contradiction to well-being is not merely a casuistic collision, but rather an always present and necessary opposition, especially and most manifestly in developed societies (Ilt 3, pp. 397-398; cf. 3, p. 459).

The third step of Hegel's argumentation is taken in § 127 by (incorrectly) identifying well-being (*Wohl*) with the life (*Leben*) of the subject. "Life" is here taken to mean "the simple totality" in which the particular "interests of the natural will" are brought together. But was not "totality of the particular interests of subjective spirit" the definition that Hegel, in his theory of free will, proposed for happiness (*Glückseligkeit*)? However, "life," as it is portrayed in §§ 127 ff., is equivalent to neither the empirical "totality" of happiness, nor a fully actualized human life; it is the name for bare minimum survival, which would be impossible without the fulfillment of the most basic needs.

The surreptitious replacement of well-being with "life" transforms the contrast between right and morality into another traditional question: In a situation of extreme need or "necessity" (*Not*), does one have the right to appropriate another's property (e.g., bread)? Hegel's answer is affirmative, but does it solve the tension between right and morality or that between property and well-being? Certainly not the latter, because well-being has now disappeared from the horizon. What about the former? The right to survival is not a right of morality, but an implication of abstract right, since this assumes that a person must at least exist in order to own anything.

In §§ 47-48, Hegel declared that the (abstract) right of a person includes the right to take possession of one's life and body and that no one is allowed to infringe on this basic property. According to the prohibitive character of abstract right, it does not follow

from this right to life that others are obliged to help me survive; but does it not immediately follow that the owner of an individual life is justified in maintaining this life? If so, the *abstract* right itself, independent of morality, implies the right to survival. Since Hegel sees the (abstract) right to life as a property right, the question of a *Notrecht* (right of necessity) should then be treated as a conflict between two property rights.

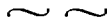
Hegel's undialectical separation of the negative (prohibitive and permissive) norms of abstract right from all positive demands of "natural law" seems to me illegitimate. Even his basic tenet "Be a person and respect others as persons" (§ 36) cannot be understood as a mere prohibition. From its first level of appearance, the concept of free will *demand*s actualization. If *all* positive demands, even the demand that a subject be allowed to survive, belong to the moral or ethical dimension, the consequence would be what Hegel seems to have said in a very strange remark in his 1822-23 course:

Man is free, his life must [*soll*] be saved. As a thinking being, man not only desires to live in the present moment; he desires safety of life in general. [. . .] But it is necessary to live only *now* [*itzt*]. Only the present moment (*das Itzt*) includes this unity of freedom and life. True, it is natural that humans go beyond this. However herein no pretext [for "stealing"] can be found, because the future is not absolute, but up to contingency. Even if someone expects a secure future, its security itself is still contingent; neither security nor insecurity are guaranteed. The necessity of survival must therefore be restricted to the *now* only; only the absolute need of the present justifies an unjust (*unrechtlich*) action, because the omission of such action itself contains the achievement of an injustice, to wit a supreme injustice, the entire total (*gänzliche totale*) negation of the freedom's *Dasein* (Ilt 3, pp. 402-403).

It is unclear how the last lines cited can be consistent with the immediately preceding passage where Hegel affirms that a person would be "without right" (*rechtlos*) and that "the entire freedom of a person is negated" (the definition of crime!) if he is not allowed to appropriate what he needs:

If an individual in peril of life would not do this [namely, save his life by violating another person's property], he must be determined as rightless (*rechtlos*). Indeed, if the entire *Dasein* of freedom is taken away, if life itself is taken away, his entire freedom as a person is negated (Ilt 3, p. 401).

Here, Hegel seems to recognize that the entire discussion of *Notrecht* belongs with the problematic of abstract right. Although he has maintained that abstract right is purely formal, he did not refrain from defending certain contents and ends as inalienable, in the first place, life, the body, the mind, talents, and work. Can we conceive of the right to maintain these kinds of property as independent from any duty to protect them by positive actions like feeding oneself? If so, the basic duty and right to self-maintenance indeed belongs to the dimension of morality, and not of property right. Morality then represents the first positive and concrete right, but could not this be inferred immediately from the concept of personality? If it could be, "respect all persons" (§ 36) would have a negative and a positive side, but there would hardly be a reason to distribute these sides over two different chapters: right *and* morality. The positive right to well-being could then be deduced as a particularization of the first, most abstract right. Instead of showing how the antinomy between right and morality points to a higher dimension, Hegel would then show an internal conflict between a more and a less abstract right. The question of §§ 121-125 would then oppose right to morality, as property right and the right to concrete survival. Was this perspective already established when Hegel, in § 107, decided that morality would be treated as a *right* only, and not as a question of self-realization as experienced by individuals for their own sake? Hegel's disinterest in moral philosophy yields an ensemble of unposed and unresolved questions in the field of ethics. His theory tends to reduce all questions of moral philosophy to problems of "natural right."



If the premises of §§ 121-126 are accepted, the solution to the question is easy. In extreme need, the infinite right to life prevails over the right to a singular limited property, provided that the general demands of right and personality as such are recognized (§ 127). The Remark on § 127 shows that "extreme need" allows for a generous interpretation: from *Notrecht* follows (*fließt*, flows) the allowance that someone who has gone bankrupt may not only keep what is needed to continue one's work, but even the basic property of his class. The question remains unanswered whether these needs encompass (besides bare necessities like clothes and

tools) machines, a factory, and a villa. Likewise, Hegel does not mention any right of the poor to *take* their means of subsistence, education, and productivity from a society that has not allowed them to realize the universal right and duty to own parts of the naturally and culturally available universe. From the principles of his theory it follows that every individual *must* be an owner of some property. If there is no unoccupied property available, as is the case in most civilized societies, a social system must be established that not only tolerates, but positively supports, educates, and protects all those who come into the world without enough property to survive. If such a system is absent, the objective spirit fails to realize its basic principle. Societies that neglect this duty are fundamentally unjust, because they do not actualize the well-being of the community, but instead defend those who own everything against the propertyless mass of individuals whose abstract, unrealized freedom lowers their fate below the level of animals.⁶⁹

Morality in the Course of 1817-18

Before interpreting the last part of the chapter on morality in the *Grundlinien*, I would like to provide a brief overview of Hegel's treatment of morality in his first Heidelberg course on the philosophy of right (Wa 60-81), especially §§ 50-62 of that course (Wa 60-73). The course provides a discussion of morality that is clearer than that in the *Grundlinien*, in which too many questions are raised and various perspectives struggle for primacy. We have seen that the first edition of the *Encyclopedia* (1817) displays a simpler and more plausible composition, but in the text of its second (1827) and third editions (1830) Hegel tries to combine the structure of the first text with that of the *Grundlinien* (1820).⁷⁰ The course of 1817-18, given between the writing of the first *Encyclopedia* (1817) and the *Grundlinien*, is closer to the latter than to the former, while providing a more satisfactory composition.

⁶⁹ A good discussion of Hegel's doctrine of *Notrecht*, based on all the available material, is Wolfgang Schild, "Hegel's Lehre vom Notrecht" in Vittorio Hösle (ed.), *Die Rechtsphilosophie des Deutschen Idealismus* (Hamburg: Meiner, 1989), pp. 146-163 (with a list of secondary literature on p. 148, note 2). See also Wa 74 and Ilt 2, p. 459.

⁷⁰ See the schema in *Hegels prakt. Phil.*, pp. 194-195.

Although it is not a “treatise of ethics” (*eine Abhandlung der Moral*) in which “*die Moral*” is unfolded (Wa 72), it does clearly develop the main definitions, distinctions, and questions of moral philosophy in a rather straightforward way. Hegel begins with a clear definition of the moral subject. In contrast with the person (i.e., the will as immediate singularity), “the individual subject” is

the will as for itself, whose singularity is determined as *particularity*, i.e., as relation of the will-for-itself to the will as *being in and for itself* (Wa 60 § 50, parallel to GrI §§ 105-106).

Without adding confusing comments about “the right of morality,” as he does in GrI § 107 & R, Hegel develops the *form* of the moral will in §§ 52-56 (Wa 61-67: “Actions and dispositions”) and the *content* in §§ 57-64 (Wa 67-76: “The particular ends, well-being and purpose”). The first, formal part focuses on the moral relevance of intentions, maxims, and dispositions (*Gesinnung*) in contrast with the juridical perspective. As we have seen, one of the reasons why the parallel sections (§§ 108-118) of the *Grundlinien* are so difficult to place is that they stress the juridical and objective aspect of actions, while obscuring the role of the *Gesinnung*, which is emphasized in the course (Wa 60-67). The word *Gesinnung*, has even disappeared in the chapter on morality of the *Grundlinien*.

In its second part, the 1817-18 course clearly states that the content of any action is a particular end. The universal will can be realized only by subjects who will particular ends in which they find satisfaction. The ideal integration of these ends into one whole constitutes the subject’s happiness. Because the ends are finite, they conflict; their integration demands that they be subordinated to the demands of the universal end, which is freedom.

Quite explicitly and repeatedly Hegel states that well-being or happiness, as the general names for the satisfaction of the acting subject, is not only a *right*, but also a *duty* (Wa 69-71). In §§ 59-60 he repeats it no less than five times, while in the *Grundlinien*, though not denying the obligatory character of our striving for happiness and stating it as a right, he treats it with more reticence than enthusiasm. Without reservation, the course defines the morally bad *Gesinnung* as one that “goes against others’ well-being” (Wa 72 and 73). Evil lies in “the carrying out of one’s egoistic plans at the cost of others’ well-being” (Wa 73). I am allowed to

give up my own particular rights, but not those of others. However, as we have already seen in the chapter on abstract right, I do not have a right to abolish my own competence or existence as a free person (Wa 73). We must conclude that morality does not simply coincide with altruism, because I also have duties with regard to my own existence as a free person and subject.

The further development of the course (Wa 74-81) parallels the line of argumentation offered in the Grl 127 ff.⁷¹ In the second and third editions of the *Encyclopedia*, however, Hegel abandons the “deduction” of *Notrecht* from the opposition between abstract right and the right to well-being. Though integrating the material of Grl 115-118, he then returns to the structure of the first edition, thus recovering a more satisfactory composition. Perhaps Hegel himself saw that the argumentation of Grl 125-128 was an invalid experiment that had to be abandoned, although in 1820 it seemed a necessary step for proving that *Sittlichkeit* is the synthesis of right and morality.

Transition (§ 128)

The opposition of right and well-being, as analyzed in §§ 121-127, contains a hidden principle of unity, which must be brought to the fore. This unity is freedom itself, as actualized in all its juridical and moral moments and dimensions. While it can be called “the good,” this must ultimately be thought of as the complete agreement of communal and individual freedom in which happiness is perfectly integrated in self-determination. However, the transition from the oppositions and conflicts of the moral dimension to that of complete freedom demands additional steps. The next step to be made is the transformation of the relation between the subjective will, in its striving for particular well-being, and the universal

⁷¹ In Wa § 65R (p. 77), Hegel states with even more clarity that he goes beyond Kant by thinking the unity of the (substantial) good (which by itself is abstract and inactive) and happiness (which, as enacted totality of inclinations, gives the good its subjective, active, and empirical actuality). Instead of separating the good and happiness, which forced Kant to postulate the soul's immortality and a transcendent God who brings the good and well-being together, Hegel thinks of the idea of the good as the two-sided union of the universal substance of free will and its particular subjectivity.

will as concretized in the objective demands of the person's right. How can Hegel show that this transformation is already implicit in the preceding sections?

The demonstration follows the usual method: he shows (or tries to show) that the relation developed hitherto is in fact a mutual implication. The opposition between right and well-being has shown that both are unilateral, limited by one another, finite, and contingent. But both are, at the same time, realizations of freedom: the basic and abstractly universal right of the person cannot be actual unless it is realized in subjects whose actions are oriented toward happiness. And these actions, in which the subject realizes its right to satisfaction, are meant to realize the particular aspect of the same freedom. As finite terms of a mutual implication, right and well-being are "ideal," i.e., they belong together as two subordinate moments in the actuality of freedom. From the outset, through the general theory of free will, we knew that the singular, the particular, and the universal aspects of the will are perfectly one, but we knew it only abstractly or as a truth *an sich*. Now (after § 127), however, we have seen how the relation between them is manifested in the *Dasein* of property right and morality. The result of the analysis is a relation in which the mutual implication of the abstract universality of the will and the particularity of the singular subject's action is reshaped as the relation between the particularized universality of the good (which contains the idea of well-being or happiness) and the subject whose striving for happiness is the differential concretization of the universal good. As *Dasein* of the concept, the good is the idea of the triune nature of free will, but at the stage of the conceptual development reached in § 128, we know only the still abstract *concept* of this idea. In a sense, we have here reached the summit of Hegel's *Rechtsphilosophie*, comparable to the place of the good in Plato's *Politeia*, but we do not yet know how this concept must realize itself in the concrete world. We do know, however, that a concrete realization demands the subject's action and we have discovered some aspects of the internal structure and dynamics of good actions. Yet, the most fundamental aspect of the subject's task from the perspective of the good has not yet been clarified. This is conscience (*Gewissen*), i.e., the singular subject insofar as it, through knowledge and willing, produces the differentiation of the good. By directing our attention to the

relation between the good and conscience (§§128-138), Hegel will now demonstrate how they cooperate to produce from different sides a realm of particular ends in which the singular moment of the will is perfectly integrated in its universality and vice versa.⁷²

The Good (§ 129)

As the summit of the entire *Rechtsphilosophie*, the idea of the good is the summary of all the preceding developments and the foundation of all that follows. It is "the realized freedom" and therefore "the absolute final goal of the world" (*der absolute Endzweck der Welt*, § 129). Its synthetic character is stressed by pointing out that the good unites "the [abstract] concept of the will [i.e., the will's still undifferentiated universality] with the particular will [of the singular subject], the abstract right [§§ 1-104] with well-being [§§ 105-128], the subjectivity [and interiority] of knowledge [§§ 115-120] with the contingency of the external *Dasein* [§§ 115-118]." All these phenomena lose their independence when we discover that they are, in truth, nothing other than dependent and mutually implicative elements within the absolutely free totality of the good.

Equivalent expressions are used in all the courses. The expression "absolute final goal of the world" is ambiguous, however. As I have argued elsewhere,⁷³ the idea of freedom cannot be completely fulfilled within the horizon of objective spirit because this dimension is still finite. Only the synthesis of subjective and objective spirit in the absolute spirit can fulfill the aspirations of the spirit. We must therefore read the last words of § 129 ("of the world") as a restriction necessitated by the perspective of the *Grundlinien*. Within the horizon of the objective spirit, the good is identified here as the final goal of *objective* freedom and "world" is taken in the sense of § 4, where "the system of right" is defined as

⁷² For helpful clarification of § 128, see Ilt 3, p. 405 and 4, p. 343-344. A very careful analysis of the transition from morality to *Sittlichkeit*, as unfolded in §§ 129-141, with a focus on the logical structure of Hegel's argument, can be found in Angela Requate, *Die Logik der Moralität in Hegels Philosophie des Rechts* (Cuxhaven: Junghans, 1995). For a clear explanation of §§ 128-132, see also Gabriel Amengual, "El bien en la filosofía del derecho de Hegel," in *Taula: Quaderns de Pensament* 31-32 (1999): 15-28.

⁷³ *Selbsterkenntnis*, pp. 46-57.

"the world that the spirit has produced out of itself," a "second nature." Hegel's meaning can be clarified by an apposition used in the course of 1818-19: "The good is the idea of the universal will [. . .], the absolute final goal of the world, the thought of true right" (Ilt 1, p. 286).

In his first course, Hegel explains "the absolute final goal and object" in terms of "that, which is and ought to be" (*das, was ist und sein soll*, Wa 76). His argument is that the good cannot be deficient; as perfect and unmixed with evil, it neither needs nor demands anything else (except to be known as such). Therefore, all kinds of *Sollen* are *aufgehoben* in it: it is actually what it ought to be. Hegel knows very well that the world is not perfectly good — we will see that he even considers evil as an integral element of it — but the idea of the world's end (*telos*) is the idea of perfection (*teleion*). All oppositions between the exigencies of the good and the subjects that are not yet able to act accordingly are sublated in this idea. Duties and rights then become spontaneous elements of good behavior, losing their commanding character. The dualism of endless struggles is overcome, and therewith the narrow scope of "the moral [or rather, moralistic] standpoint" (Wa 76).

While Kant has understood that the good, ultimately is simultaneously the highest (*supremum*) and the most complete (*consummatum*) end of human action, he still opposes the world as an unmoved, substantial object to the imperfect individuals whose dispositions and behavior are not quite adequate (§ 129R). He adheres to the moralistic view because he does not see that the rational idea of the good necessarily actualizes itself in and through the subjects and institutions of a second nature that is itself divine. In Kant's view, the good hovers over the world of moral attempts to achieve happiness and virtue. Perfection is never realized, which is why, if the *Sollen* is not to be meaningless, we must postulate eternity for an incessant amelioration, and consequently the immortality of the human soul.⁷⁴

For Hegel, perfection, or the good, is guaranteed by the spirit's rational infinity: one day the world will be good. To a certain extent, it has always been fundamentally good, because reason rules; but its goodness needs time to unfold itself completely. The

⁷⁴ KpV, Ak V, pp. 107-119.

key to this confidence lies in the insight that *Sollen* is an essential component of the spirit, insofar as the spirit opposes itself (as nature) to itself in order to subsume into itself the natural reality as its body.

In § 131 and in Griesheim's notes we find a clear expression of the thesis that the good, in contrast to Kant's God, cannot realize itself outside of the particular wills of human individuals:

It is only in the subjective will that the good has the mediation through which it enters into actuality (§ 131). It is actual only through [. . .] the particular will. The *Dasein* of the good thus depends on the particular will; it has no other executors. To this extent the particular will is the accomplisher, the power, the master. On the other hand, the good is its substance and thus the power over the particular will" (Ilt 4, p. 347).

The good is simultaneously substance and subject, universal and differentiated, unifying spirit and singularizing multitude.

The Good and Well-Being (§ 130)

While Kant's opposition of *gut* and *wohl* is sublated in Hegel's good, Hegel agrees with Kant's subordination. Neither (abstract) right nor well-being can rebel against the good, because they are components of it. As a constitutive element, happiness cannot be opposed to the idea of the good. Moreover, right and happiness do not exclude but rather include one another; it is therefore superficial to play one off against the other. A right that demands the sacrifice of well-being is a bad right and a morality that does not respect the principles of right is immoral. Heroic sounding dicta like "*fiat justitia, pereat mundus*" (justice must be realized, even if the world founders!) suggest a basic misunderstanding, because they forget that it is one and the same principle — the free spirit — that diversifies itself in justice and happiness.

Duty (§§ 131 and 133-135)

The definition of the good, given in §§ 129-130, is still an abstract concept whose realization will require many more sections. As long as we remain confined to a moral perspective — i.e., as long as we reflect on the good from within the singular subject — the

idea of the good appears as the substantial element that imposes its commands on us. Agreement with its ends is the condition for human goodness and dignity: we must know and intend the good (§ 131). The moral relation, taken by itself, is characterized by its obligatory character: with regard to the good, we have *duties* (*Pflichten*) because the good (the universal will in its actualization) is the core of our own essence; we *are* the universal, particular, and individual will, but we cannot express this essence adequately within the limits of morality alone. The reason why we should accomplish our duty lies in its being our duty. Indeed, this experience is nothing else than the awareness of what we essentially are: the rational will that must and will realize itself (§ 133).

What is the content of our duty? Which of the many possible drives and desires should we realize in order to realize what is good instead of merely egoistic pleasure? This question cannot be answered within the limits of morality, because these do not allow us to deduce any other concretizations of our relation to the good than the general and extremely formal concepts of abstract right and well-being (in its egocentric and altrocentric sense). How these generalities can be made more specific depends, at this stage of our reflection, on the choice of the moral subject, which thereby risks acting badly instead of realizing the good (§§ 134-135). From the moral perspective, we must agree with Kant that the individual will cannot deduce any particular duty from the general obligation imposed by the good. Since the good is not yet differentiated, it is still indeterminate and abstract — the contentless identity of rational self-determination as such (§ 135). “Identity” does not here mean a tautological repetition of $A=A$, but instead the double negativity implied in freedom as self-determination (§§ 5-7). Within morality, this structure, including right and happiness, remains purely formal. If there were no other way out of this formalism, we should leave the concretization of the good entirely to the subject. However, this has only a multitude of conflicting inclinations and its own contentless *Willkür* to base its decision upon. The specification of the good can then only be motivated by the decision of its arbitrary choice: I, this singular subject, will. All particularization then depends on the bare certainty of the subject’s power. If the universality of the general duty cannot be specified in a rationally necessary way, the deciding power is the

mere certainty (*Gewißheit*) of the subject's ability to decide: the empty conscience of an abstract duty whose concretization depends on arbitrary choice (§ 136).

Formalism

The Remark on § 135 is a critical appraisal of Kant's theory of obligation. Hegel condemns its "empty formalism" and its "rhetorics of duty for duty's sake," but in § 133 he introduces the concept of duty with exactly the same words: "duty must be done for *duty's sake*." His criticism does not reject duty's claim that it must be obeyed for no other reason than that it is the expression (or "voice") of the good as the essence of the subjective will (or practical reason).⁷⁵ Let us listen to what he says about this point in one of his courses:

This is one of Kant's eminent words, directed against the opinion according to which a particular drive must determine me. Duty is a particularity lifted up to universality. Insofar as an individual depends on duty, he knows himself to be absolutely free. This is the higher concept of the will's freedom, that the determination of my will and the particularity of my determination coincide with the essentiality of the will itself, [i.e.,] with duty. In an action out of duty, the particular will is [. . .] united with its essence. When I accomplish my duty, I am absolutely in my own (*bei mir selbst*), free; I achieve then the truth of my will. This is the eminent standpoint of Kant's philosophy regarding practice: it makes the particular thought dependent on the essential [element] of its concept, such that dependence is freedom" (Ilt 3, p. 417-418).

To accomplish our duty for its own sake, and not for pleasure or happiness or any other particular profit, is certainly a basic principle of moral philosophy. For duty is nothing other than the experience of our own practical reason, insofar as this demands that we rule our natural spontaneity in a rational way. Duty thus expresses the autonomy of a being that encompasses a natural and a spiritual dynamism; it is the finite expression of human autonomy, which is infinite insofar as it is the source and the end of free reason or rational self-determination. The greatness of Kant's ethical philosophy lies in the fact that it has made

⁷⁵ See the articles of Wood and Dahlstrom cited in note 40.

autonomy the solid basis for moral philosophy. Hegel fully agrees with this when he states that the root of all duties lies in "the pure unconditional self-determination of the will" (§ 135R).

That the Kantian principles retrieved by Hegel in the preceding sections are purely formal, does not make them wrong. On the contrary, Hegel acknowledges the necessarily formal character of the moral dimension. His criticism of Kant is not directed against the formalism of his moral foundations, but against the absolutization of the formal dimension. By stopping here, any possibility of deducing a content from the form (i.e., from the ideas of reason, will, right, and morality) is denied. The formalism then becomes an "*empty formalism*" so that "moral philosophy can only repeat the maxim: Do your duty because it is your duty" (§ 135R). If a transition from the form to the content (i.e., from duty in general to particular duties) cannot be rationally justified, a concrete ethics is impossible. In that case, we could only introduce moral opinions or customs "*from the outside*," but existing *doxa* and *ethos* cannot replace rational demonstration.

Kant indeed does not deduce moral maxims from the principle of autonomy, but he thinks that he has a method for testing their morally acceptable character. Through the universalization of a maxim that is suggested by the ruling ethos or someone's imagination, we can discover whether that maxim can be thought or willed consistently as an universally valid law. Hegel misunderstands this method as a simple application of the principle of non-contradiction to any possible maxim. Consequently he charges that the principle of non-contradiction can neither specify anything nor distinguish good maxims from bad maxims in cases where the latter are consistent with themselves. What Kant should have done is show whether specific maxims can be deduced from the general principles of morality. It might, for example, be true that the maxim according to which I accept a deposit entrusted to me while at the same time planning not to return it, is contradictory within the parameters of our society; but the reason for this lies in our institution called "property." We must, therefore, deduce the necessity of property as a basic right before we can talk about the maxims that follow from it. *If* property is necessary, then theft is bad. Hegel goes further, however. Even the maxim condemning murder cannot be immediately justified (§ 135R). Murder is bad *if*

the existence of human beings is a necessity, i.e., if we can prove that there must be humans. Apparently, Hegel feels secure that he has proved that the spirit must incarnate itself in self-conscious, rational, and free persons, that property necessarily follows from personality, and that individual subjectivity, membership in a family, a society, and a state are necessary developments of human life. But is the procedure through which he “deduces” concrete duties so fundamentally different from Kant’s? Only a detailed comparison between Kant’s *Metaphysics of Morals* and Hegel’s practical philosophy could answer this question satisfactorily.⁷⁶ A hint must here suffice to prevent an all too hasty answer.

In the following chapters, we will see that Hegel attempts to overcome an absolute formalism by appealing to the institutions and mores of historically existing peoples and cultures. For most institutions, he offers a deduction, but neither “the people” itself, nor its mores are deduced anywhere in the *Grundlinien*. Hegel does not answer the question of why there must be a variety of peoples and cultures and why the existing peoples and cultures (including their moral, economic, social, political, aesthetic, and religious characteristics) must be such as they are. If he cannot answer these questions, his appeal to the people’s *Sitten* is as unjustified as Kant’s appeal to an undeduced content for his concrete moral philosophy (or displayed in his *Metaphysics of Morals*). Both Kant and Hegel seem to “take in material from the outside” (§ 135R). Certainly, Hegel’s justifications for the primary legal, social, and political institutions come closer to deductions than Kant’s doctrine of right, but are all of them rigorous or are some of them merely attempts to discover how reasonable or plausible certain existing institutions are in themselves and how much they belong together as parts of one overall pattern? I will point out some inconsistencies, for example, in Hegel’s theory of international law, where an outdated nationalism seems to have overpowered Hegel’s own logic. Should Hegel’s reproach of Kant’s “empiricism” be applied to some of his own attempts at justifying characteristic prejudices of his time?

⁷⁶ Cf. Ludwig Siep, “Hegels Metaphysik der Sitten, “ in *Siep, Prakt. Phil.* pp. 182-194.

The Subject Itself Must Know What Is Good and Bad (§ 132)

The argumentation of §§ 131-136 is interrupted by section 132, in which Hegel again inserts the juridical perspective (announced in § 107) into his consideration of moral questions. In accordance with the analysis of action and following the orientation of §§ 115-120, Hegel states that the subject, to be moral, must know why certain actions are obligatory; the actor must have an insight into why some actions are good while others are bad. Again, Hegel calls this consequence of the principle of subjectivity a right, and again he stresses the imputability that follows from it. Anticipating his analyses of legislation, the judiciary, and the state in §§ 209 ff., he states that an action can be imputed to the extent that the actor knew that its objective value was just or unjust, good or bad, lawful or unlawful. The mixture of moral and legal perspectives in § 132 is confusing, but Hegel cannot refrain from warning his readers against the subjectivism of a one-sided emphasis on this right. Though he clearly acknowledges that "the right not to recognize anything whose rationality I do not understand, is the highest right of the subject" in the dimension of morality, he insists in § 132R and in an exceptionally long marginal note (Ilt 2, p. 467-475) that subjective insight, contingent and fallible as it is, cannot be a reason to disobey the established laws of the state. "The right of the objectivity," an expression repeated four times in § 132R, is stronger than the right of subjective knowledge, because the state is a higher dimension than the dimension of morality. Hegel is silent here about the possibility and the reality of bad, unjust, unfree, and irrational laws. As in the Preface, his one-sided rhetoric targets the vanity (*Eitelkeit*), arrogance (*Hochmut*), and self-conceit (*Eigensinn*) of those who lack the respect and awe (*Ehrfurcht*) for the sacred (*heilig*) bond that binds a people together through laws. Those who isolate themselves from the community appeal to their own insights, but these are the most trivial and superficial opinions taken from the dross and the scum of the culture (Ilt 2, p. 472-473).

From the perspective of the State, it is enough that the insight of its citizens be restricted to the knowledge of the existing laws.⁷⁷

⁷⁷ Cf., in addition to GrI 123R, this marginal note: "It may be desirable that people know the foundation, the deeper source of right, [but] it is not an

The exercise of my right to my own understanding of good and bad, just and unjust, can bring me into conflict with the establishment, but

the authority of the state and the ruling ethos, etc., has an enormous predominance (*Übergewicht*) over my subjective authority, because the former is the universal against the particular. I must therefore impose a great doubt on my authority against such a power (Ilt 4, p. 353).⁷⁸

Again Hegel masks the real issue by distinguishing neither between the existing states and the ideal state that he sketches, nor between superficial and insightful opinions, such as his own. His own conviction is inscribed in his book in which he opposes many existing authorities in a variety of ways. Though he hoped that his insights would prevail over several existing laws, he accepted the fact that the powers in place did not follow his advice. Despite much injustice, the existing state was still better than a revolution. Behind Hegel's sermons against subjectivism, a good deal of resignation must have been hidden.

Conscience (§§ 136-138)

In the next chapter, we will see that the objective differentiation of the universal will is not possible outside *Sittlichkeit*. If no concrete duties are presented by a trustworthy ethical order, individuals must decide on their own what sort of behavior the good demands. Certain periods of world history are so violent and unjust that individuals cannot be at home in them. Their freedom cannot find an expression in the political situation and their only recourse is to flee inward, counting only on their own interiority (§ 138R). In such circumstances, one experiences "the deepest inner

objective necessity. Trust, faith, common sense, ethos is the general objective mode of foundation" (Ilt 2, p. 475).

⁷⁸ Cf. D.O. Dahlstrom, "Die Zweideutigkeit des Gewissens," in *Hegel-Jahrbuch* (1993-94): 430-438, and Gabriel Amengual's criticism of § 132R on pp. 64-65 of his excellent article "La consciencia moral como 'el derecho supremo del sujeto,'" in Maria Carmen Paredes Martín (ed.), *Subjetividad y pensamiento: Cuestiones en torno a Hegel* (Salamanca: la Universidad de Salamanca, 1994), pp. 57-69 (also published in *Hegel-Jahrbuch* [1993-94]: 430-438 as "Das Gewissen als das höchste Recht des Subjekts").

loneliness with oneself" (Ilt 3, p. 426). Neither the universal imperative of the good, nor any particular institution offers support. But how then can one project a rational way of life?

"Follow the voice of your conscience!" is the advice that honors the "majesty" and the "sanctuary" of conscience;⁷⁹ however, it does not tell us how conscience can be certain that its specification of the good is correct. Conscience is absolutely justified "to know *in* and *out of itself* its right and duty and to recognize nothing unless it knows it as [a specification of] the good" (§ 135R), but, as Hegel already said in § 132, true conscience is one with the true objectivity of the good in an existent community. United with it, conscience is the subjective form without which the ethical substance cannot actualize itself; in that union it is a "sanctuary, an attack on which would be sacrilegious" (§ 137R). Separated from the substance, however, conscience is only the negative and empty freedom of withdrawal from all reality (§ 5) on the level of morality (§ 137). It is a necessary element of the actual good, because subjective self-determination (or freedom) is not possible unless the subject has an inner distance from all its possible determinations. If, however, conscience separates itself from the objective determinations of the good, as realized in the ethical dimension, it becomes unruly and arbitrary, because it is no longer led by reason, but instead by the play and pleasure of its solitary choice.⁸⁰ The temptation to change its formal role into an independent legislation can seduce the subject's conscience to arrogance. According to a marginal note, this indeed happened to many persons of Hegel's time:

⁷⁹ Grl 137R; Ilt 2, pp. 483, 489, 491; 4, p. 361: "The holy, inviolable site of man."

⁸⁰ On conscience, in addition to the studies indicated in notes 40 and 78, see Thomas Mertens, "Recht und Unrecht des Gewissens in Hegels Rechtsphilosophie," in *Archiv für Rechts- und Sozialphilosophie* 74 (1988): 477-490. Dietmar Köhler, in "Hegels Gewissensdialektik" (*Hegel-Studien* 28 [1993]: 127-141), shows how the dialectic of conscience as explained in the *Phenomenology* of 1807, differs from the treatment it receives in the *Grundlinien*. His conclusion is the following: "The methodological approach as well as the underlying structural conception of the whole differs from the *Phenomenology*. [In the *Rechtsphilosophie*], the reconciliation is no longer achieved by the mutual [. . .] recognition as "work" of the absolute spirit; instead, the abstract universality of right is mediated with the abstract morality of subjective [. . .] conscience in the concrete ethicality of the state" (p. 139).

Standpoint of the abstract conscience, of the abstract subjective freedom in itself. This is the main standpoint and sickness of this time. Dissolution of awe with regard to the objective reality of the mores (Ilt 2, p. 491).

Evil (§ 139)

The “ambiguity” of conscience (§ 137R) becomes evil when the subject raises its particularity above the rational or universal (moment of the) will (§ 139). By defining the evil will as one that “makes its own particularity the principle over the universal,” Hegel comes very close to Kant’s formulation. Did not Kant’s test lie in the universalization of a particular maxim? If a maxim cannot be accepted consistently as a concretization of a universal law, it is a bad maxim. Its badness then lies in the hostility of its particularism against universality. While Hegel shares this position, his conception of universality is more synthetic than Kant’s.

If the possibility of evil arises from the non-identity of the pure practical reason (the universal free will) with the natural drives whose particularity *can* be played off against that universality, the subjectivity of conscience is the power that decides how universality (reason) and particularity (drives) should relate when the subject acts. Thus conscience is the “common root” of good and bad attitudes and actions.

While theologians talk about the origin of evil as a “mystery,” philosophy understands this mystery as the speculative essence and idea of freedom. By virtue of its concept, freedom must distance itself from its immediate, natural determinations (the particular drives) and withdraw into the interiority of conscience where it hears the commands of its rational universality. If a subject chooses to obey these commands, its actions and the particular drives from which they stem, embody this rational universality. A subject that does not care for rationality, however, allows itself to be manipulated by the particularity of some drive (for example, greed or lust), which inaugurates evil. Denying, through its action, its essence and concept, it is for itself not what it is in itself (§ 66R).

Neither natural drives nor particularity as such are the origin of evil. In themselves, they are ambivalent and undecided: it is the

preference for them over the universality of reason that makes them bad. *An sich* — "by nature," "essentially," or "conceptually" — human beings are neither good nor bad, or, if you want, they are potentially both good and bad. Through reflection-in-itself, the subject can determine that its allegiance is good if it subordinates its particular drives to the universality of its reason, or bad if it prefers its particularity over all else (§ 139R).⁸¹

Hegel's deduction in §§ 136-139 explains the *possibility* of evil, not its necessity.⁸² The will must distance itself from its own particular determinations to show its rationality (§ 5) — which distinguishes human freedom from animal instinct — but it is only contingent, not necessary, that it prefer the one to the other. Good and bad actions depend on contingent choices of subjective wills. Good actions are more "normal," however, because they manifest the true concept of freedom, whereas bad actions distort it by reversing the conceptual hierarchy.

Hegel's discussion about "the necessity of evil" (§ 139R) is misleading — as if he had deduced more than the necessity of its possibility. Might we say that Hegel proves the necessity of the *abstract concept* of evil only, but not its reality, which depends on the contingency of subjective choices? According to Hegel's logic, all concepts must realize themselves, and thus it seems that if the concept of evil itself is necessary, as the inevitable conclusion of a deduction, it presents us with a rationally justified idea. But can evil be rational? Would not a deduction destroy its very essence and concept? If Hegel has proved the necessity of evil, he has transformed it into something rational and good. But if evil is utterly irrational, can it be a concept at all? Or is *moral* evil only a subordinate form or moment of evil, which can and must be sublated in a higher order good? Is it a sin that, from a higher perspective, can be understood as a *felix peccatum*?

⁸¹ Like Kant, Hegel thinks that individuals can accomplish what duty demands, even if their motivations are bad, for example, even out of vanity. This must be kept in mind when Hegel, in his criticism of the hero's valets, suggests that the moral value of a subject lies in "the series of its actions."

⁸² Cf. Ilt 3, p. 447 ("This is therefore the nature of evil, that man can, but not necessarily must, will it") and 446 ("The necessity is here not a natural necessity; [. . .] the decision is precisely the *Aufhebung* of the doubleness of good and bad").

In any case, Hegel clearly affirms that moral evil “is determined as that which necessarily *ought not be*” (§ 139R). It must be sublated, just as, on the level of right, crimes must be sublated by a higher level reconciliation. Similar to the overcoming of “unright,” which demanded the opening of a higher dimension of freedom (§§ 103-105), the sublation of moral evil includes the sublation of morality (“the moral standpoint”) into another dimension: that of *Sittlichkeit*. The moralistic absolutization of morality (or the idolization of the subjective will) is itself a basic form of evil — especially when it presents itself as something good.⁸³

Moralistic Immorality (§ 140)

The concluding section of the chapter on morality is a fierce criticism of all ideologies that embrace the principle of the moral will as the basis of ethics in isolation from the universal will's objective rationality. Instead of further analyzing immoral actions, Hegel here offers a fundamental critique of all kinds of moral subjectivism present in his time.

Jacobi, more than Kant, is here the target, as Hegel's remarks in his course of 1824-25 indicate: “Nobody wants to be a Kantian, while everybody sides with Jacobi.”⁸⁴ His main target, however, is again the liberal movement that he also attacks in the Preface, but his criticism in § 140 extends much further, encompassing all the moral ideologies that were already criticized in the *Phenomenology* of 1807, including the probabilism of the seventeenth-century and romantic conceptions of ethics such as Friedrich Schlegel's *Lucinde*.⁸⁵ Because all the forms of subjectivism sketched in § 140R

⁸³ Cf. also the attempts at a deduction of “evil” in Ilt 3, pp. 438-447 and 4, pp. 365-371. On every level of “right,” the idea is accompanied by a specific kind of evil: *wrong* (“unright,” differentiated as innocent wrong, fraud, and crime) and *moral evil* of various sorts (subjectivism, disobedience, hypocrisy, etc.) are only the first two manifestations of evil; they will be followed by hatred, dishonesty, lack of patriotism, war, and so on.

⁸⁴ Ilt 4, p. 388. In his critique of the fifth type of immoralism (e), pp. 132-136, Hegel quotes Jacobi to refute Jacobi's own position (note to p. 134). In Ilt 4, pp. 385-388, Hegel argues that this kind of ethics is rooted in Kant's agnosticism but even more so in Jacobi's trust in immediate belief (pp. 386-388).

⁸⁵ In addition to Jacobi's *Woldemar* (1779) and Friedrich Schlegel's *Lucinde* (1799), Hegel's targets include the work of other romantics as well, such as Schleiermacher, Hölderlin, and Novalis, as was the case in the *Phenomenology* of

are absolutizations of the (in Hegel's sense) "moral" point of view, we may characterize this Remark as Hegel's critique or meta-critique of modern moralism. As a link in the meta-ethical tradition from Pascal through the French moralists of the eighteenth century to Nietzsche and Freud, Hegel demystifies the insincerity and arrogance of an entire range of moral philosophies, all of which have one principle in common, though they differ in the manner and the radicality with which they develop it into a theory. Each form of subjectivism isolates the principle of subjectivity from reason and freedom itself, and makes it into the absolute criterion of good and bad. Rationality is replaced with individual opinion and choice. This is the basic immorality (or meta-immorality) of all moralisms. Without support from the universal and objectively differentiated element of free will, a subject can only follow the strongest impulses of its natural dynamism. When choice becomes unruly and arbitrary, the principle of evil itself becomes the basic principle of moral philosophy.

The core of Hegel's critique is formulated in § 140. In order to replace the good of rational freedom with a purely subjective norm (or "maxim"!), the subject must claim that such a norm is good, i.e., a legitimate concretization of the (idea of the) good. This can be done in various ways, but if universal (and in that sense objective) reason is spurned, all concretizations are immoral.

One might have expected that, at the end of his second chapter, Hegel would deduce three forms of morality parallel to the three forms of injustice (or "unright") deduced in the first chapter (§§ 83 ff.). This would have been possible by showing that the juridical triplet of straightforward injustice (§ 84), deceit (§ 87), and crime (§ 95) runs parallel to the moral forms of evil (§ 139), hypocrisy (§ 140^I), and arrogance or self-divinization (§ 140^{II}).⁸⁶

1807. See Emmanuel Hirsch, "Die Beisetzung der Romantiker in Hegels Phänomenologie: Ein Kommentar zu dem Abschnitte über die Moralität," in E. Hirsch, *Die idealistische Philosophie und das Christentum* (Gütersloh: Vandenhoeck, 1926); Gustav Falke, "Hegel und Jacobi: Ein methodisches Beispiel zur Interpretation der *Phänomenologie des Geistes*," in *Hegel-Studien* 22 (1987): 129-142; and especially Otto Pöggeler, *Hegels Kritik der Romantik* (München: Fink, 1998). (On romantic irony, see pp. 45-62 and on the brothers Schlegel, pp. 121-145.)

⁸⁶ However, in his course of 1824-25, Hegel hints in this direction when he distinguishes the first and second figures of evil as "naïve evil" (*unbefangenes Böse*) and a "reflected evil will," which transforms what is evil in itself into "the semblance (*Schein*) of the good" (Ilt 4, pp. 371-372).

However, Hegel neither acknowledges this parallel, nor attempts a deduction of hypocrisy and arrogance; instead, he explains how the latter are possible and precisely how bad they are.

A subject that is related to the totally undifferentiated, and thus indeterminate, universality of the good, can always find something good in whatever end or action it chooses. A theft, for example, can be a good means for helping the poor or fulfilling my duties to my family. The very fact that my action realizes some possibility of the world and myself, thereby satisfying some desire, may already count as a positive and therefore good accomplishment. In this sense, it is said that nobody can accomplish an evil action because the motivation of an action always supposes some attractive or (phenomenal) good. Since the universality of the good, in our hypothesis, does not yet have any objective determination, I can do something good only by first determining the good in my own way: through my decision, the good is concretized in a maxim or action here and now. Left to my strictly private legislation, however, I will be seduced by the positive attraction of ends suggested by my natural drives, regardless of whether the pursuit of this or that specific end is rationally justified. To claim that an action or maxim is good because I want and choose it, is the summit of evil: through my rejection of the will's universality, an arbitrary particularism makes itself the very criterion of morality. In place of the rational, and thus universal, good itself, a singular subject's choice makes the final judgement about good and bad.

To put the argument somewhat differently, the end of an action has at least one positive aspect insofar as it is the concrete result of an action. In order to act, however, a subject must determine or particularize the empty universality of the general duty imposed by the categorical imperative. As long as this empty, merely formal, imperative is not concretized through a rational, i.e., necessary, deduction of particular duties from its categorical universality — a deduction that can only be given within the framework of *Sittlichkeit* — the acting subject can adopt *any* end (or any aspect of any end) as the positive determination of the universal good.

However, as a will that, in its self-determination, returns or reflects into itself, the subject also has a negative relation to its positive end: it is able to choose many other ends instead. As long as the subjective will, in the particularization of its self-

determination, is not one with the good's own rational self-differentiation, it is sovereign over all possible particularizations. This subjectivism is the root of evil, because in the name of its own preference, it despises the objective self-determination of the rational and universal good.

To present the subjectivistic criterion as the foundation of morality destroys the truth of the good. In expressing it to others, it generates all sorts of hypocrisy; with regard to oneself, it is the extreme arrogance of a singular subject that plays the role of the absolute. Hegel reaffirms a traditional view: *superbia*, self-idolization, and the subjection of rational freedom to arbitrary choice is the very root of immorality.

Against Subjectivism (§ 140R)

This Remark of about 5000 words has been called "a kind of phenomenological appendix."⁸⁷ Indeed, it does not add any essential elements to the argumentation of §§ 105-140, but it greatly helps the reader to acquire a more concrete idea of Hegel's own moral position and the motivation for his hostility toward the dominant types of contemporary ethics. Throughout this Remark, Hegel refers several times to the *Phenomenology of Spirit*, but rather than giving a rigorous deduction of one position after the other, he presents a classification that proceeds from bad to worse with rather loose transitions and interspersed summaries of ethical analyses that could, and perhaps should, have been given in the main text of §§ 105-140.

Instead of commenting on each of the six figures of subjectivism that Hegel criticizes, I will here focus on a few basic elements of his text that could be used in a discussion of the various subjectivisms of our own time, some of which are so seductive that even noted Hegel scholars (mis)read them into Hegel's own conception of ethics.

In the first place, Hegel clearly states that he is on the side of Plato against all philosophers who hail the authority of individual opinions and convictions. The foundation of ethics cannot be located outside of the idea's substantiality, in which all dialectics of

⁸⁷ *Anspruch und Leistung*, pp. 123-124.

unilateral, finite, and therefore conflicting perspectives are reconciled. Against agnosticism, romantic irony, pre- and post-Nietzschean preferences for tragic impossibilities, etc., Hegel, with Plato, defends “the triumph of truth,” i.e., the actual, concretely present infinity of Reason itself. The absolute enemy is the privatized individual who, falsely using the word “autonomy,” considers and wills him- or herself to be the foundation of all duties and rights. This empty subject in its “absolute complacency for itself” (*absolute Selbstgefälligkeit*) and “solitary self-adoration” (*einsame Gottesdienst seiner selbst*) is the most narcissistic and vain opponent of the good. In declaring “I am the absolute,” while despising the substantial “thing” itself (*die Sache*), it is nullity itself: the very source of evil.⁸⁸

In its purest form, moral subjectivism has manifested itself in the romantic celebration of an anti-platonic, Schlegelian form of irony: “I will” lifts itself up above all laws and duties and rights in order to choose what it wants here and now. The will to will of a singular subject is the only valid law. Obviously such a will generates as many conflicts as there are individuals, and the only solution for this multitude of contradictions is the will of the strongest “I will.” Omnipresent violence is therefore the second law.⁸⁹

Hegel portrays the utterly evil subject in six somewhat mitigated variations. Individualism, hypocrisy, probabilism, the ethics of good intentions, of subjective conditions, and romantic irony are expressions of philosophical decadence. Regardless of whether they appeal to spontaneous feelings, good intentions, a good heart, or deep convictions, they lack thought. Only reason can overcome their world of prattle and semblance; only through thought can one reach the essence of will, freedom, subjectivity, and good.

The contrast between thought and superficiality — an issue that should be analyzed in any treatise of moral philosophy — can be illustrated in the relation between the end and the means of an action (p. 131-132; *Elements*, 175-176). “The end sanctifies the means.” Of course, what else could sanctify the means, if we

⁸⁸ Cf. Ilt 2, pp. 531; 3, p. 468; 4, p. 390.

⁸⁹ Cf. Ilt 4, pp. 386-387.

presuppose that the end is already sanctified? The quoted thesis is then even a tautology, because a means is what realizes or mediates an end. However, the real issue lies in the question of whether a determinate means is a "true" or only a putative or pretended means. Retrieving the traditional distinction between the end of the action itself (*fini operis*) and the action as intended by the actor (*finis operantis*), Hegel points out that, although good means follow from the essence of a good end and bad means follow from bad ends, a human subject can choose bad means with the intention of realizing a good end. It is, for example, possible to murder someone to free the nation of a bad writer. The subjective intention does not change the badness of the means, however.⁹⁰

Hegel also notes that abstract rules about means cannot be specified in an objective way if the actor remains isolated from the ethical whole within which he must act. He uses, as an example, the rule "thou shall not kill!" (p. 132). According to Hegel, this rule is not absolutely valid on the higher level of ethical life. As we will see, a judge can determine under which conditions it is a duty to kill a criminal. A private subject, however, is not able to concretize such generalities, because it cannot take over the task of the state.

Hegel's hostility against all forms of moral subjectivism is similar to the hostility he attributes to Plato. While recognizing the modern principle of individual subjectivity, he fears that the unilateral emphasis placed upon this principle by professors and intellectuals will degenerate into anarchy. Modern individualism is supported by the most popular philosophies, all of which are, at least to some degree, agnostic, relativistic, subjectivistic, and anti-platonic. If it were not possible to know how the will, as practical reason, determines itself to accomplish universally valid actions, there would be no solution to the problems of morality and politics. Therefore, the possibility of true knowledge is crucial (p. 133). It is the responsibility of philosophers to replace "academic babble" with serious proofs for the truth about human praxis. If this claim is correct, Hegel's own theory must be judged as an

⁹⁰ In the Preface (Grl, pp. 10-13), Hegel flays the moral subjectivism and the hatred of the law from which Sand's murder of Kotzebue could emerge (see *Philosophy and Politics*, pp. 15-20), but in Ilt 4, pp. 388-389, he refers to an attempted murder of Napoleon in 1809.

attempt to rigorously deduce the rights and duties that follow from the idea of freedom. In the following chapter we will see the result of this attempt.

One last remark. Besides the principled refutation of subjectivism, Hegel also uses a more empirical argument *ad hominem* (p. 135; *Elements*, 179): How dare you oppose and superimpose your individual opinion about good and bad on the authority of a public community in which countless individuals share the wisdom of centuries!? Is not the authority of the state's heritage more relevant than yours? The argument is weak because Hegel himself is quite selective in approving or renouncing the opinions and mores of the existing states. His belief that history is guided by reason does not answer the question of whether specific selections and interpretations are correct. When his enemies plead for a greater role of subjectivity within the reactionary situation of Prussia, they protest against the unilateral character of an objectivist view, whose bias is manifest in Hegel's refusal to clearly distinguish between the idea of the state and its factual perversion in the historical reality of his time. Hegel has not directly betrayed his real thought, but his haste to reconcile his conceptual truth with the historical reality — or his haste in overcoming a fundamental *Sollen* that has not yet been transformed into a perfect actuality — has obscured the meaning of his thought. On the other hand, his criticism of various specimens of moral subjectivism as insincere and inauthentic anticipates much of Nietzsche's and Freud's demystifications. It even goes beyond them by pointing out that moral hypocrisy is only the portico of arrogance and self-idolization.

From Morality to Sittlichkeit (§ 141 & R)

At the end of his chapter on morality, Hegel again insists on the rigorously logical character of any respectable philosophy, and especially of his own deduction of *Sittlichkeit*. The conclusion of the chapter summarizes the preceding deductions in the following way.

If conscience and the good are opposed (as they are by the *Verstand*), the conceptual analysis shows that both become entirely abstract or indeterminate. The substantial universality of the good

demands actualization, which can only be realized if it is determined; however, a determination (or particular concretization) requires the subject. Abstract and indeterminate conscience is the principle of determination needed by the good, but its choice is not sufficient: conscience demands that its concretizations of the good are indeed the determinations demanded by the good (i.e., the universal will) itself. Both conscience and the good are therefore identical insofar as they are abstract and indeterminate, yet demanding good determinations. This still abstract identity further confirms what we already knew about freedom and right from the beginning of the book: free will is the inseparable unity of its universal and singular moments, thanks to the mediation of its particularity (§§ 5-7). What we understood *in abstracto* has now shown itself to be the truth of the opposition between conscience and the good: the latter can be actual only in the form of a conscientious system of duties, while conscience cannot become concrete unless its system of moral (self-)determinations coincides with the self-differentiation of the good.⁹¹

As identical with the concept of the concrete and self-conscious good, the concept of a good conscience encompasses the results of all the preceding deductions. This will become manifest when we study the behavior of moral subjects as members of a family, participants in socio-economic processes (cf. §§ 207, 230, and 242), and citizens. Good conscience or the conscientious good integrates right and morality as components of an idea that Hegel calls *Sittlichkeit*. The concrete actuality of this idea is the State, whose structure will be analyzed in Chapter Ten. Hegel tries to adopt a middle course between objectivism and subjectivism, both of which were temptations of his time. Without indulging in nostalgia for an objective but infantilizing order (which he attributes to Catholics),⁹² his perspective on morality is from the outset restricted by a double fascination with politics and nationalism.

⁹¹ Similar deductions are found in *Ilt* 2, pp. 535-536 (in their opposition, conscience is the indeterminate form without content, while the good is the infinite content without form), and 3, pp. 476-481.

⁹² Cf. *Ilt* 2, p. 525 (a marginal remark): "Longing for objectivity — toward the other extreme [scil., toward an anti-subjective objectivism] — becoming catholic." This is explained in *Ilt* 3, pp. 475-476.

CHAPTER SEVEN

SITTlichkeit

With the chapter on *Sittlichkeit* (§§ 142-360) we reach the concrete world of "right," that is, the "real," social and historical world of people in families, commercial and legal dealings, public and private associations, nations, and states, with their own cultures and histories. The preceding chapters did not give us an idea of this world, but only some of its abstracted elements: *personality* (as expressed in property), the interpersonal structure of all contracts, the contingency of justice in general, *morality* (as characteristic of individual subjectivity in its relation to its own rights and the rights of others), and the demands of the good itself. The formal structures that came to light must now find their proper place and function within the network of social relations that form the objective totality of the encompassing spirit. Only now can we see the relevance of those elements and structures, which content they can or ought to contain, and whether their integration into concrete wholes necessitates a revision of the abstract statements made in the first two chapters. It would be wrong to view those abstractions as the ultimate foundations of what follows. Freedom (i.e., free will) certainly remains the principle, but the first two chapters have not yet revealed all the truths that are implied in it. In particular, its encompassing or "holistic" character has hardly been thematized until now. In passing from the abstract and formal considerations to the reality of ethical life, a deeper foundation becomes visible; the true substance of which right and morality are constitutive components precedes them in the ontological order, even if it follows them in the order of discovery.

When examining Hegel's analysis of interpersonal relations or the social network that constitutes a human society, we must not forget that he — with Aristotle¹ — sees the community as more

¹ Cf. GrI 129-135 and Chapter Six of this book. An early version of this chapter can be found in "Hegels Pflichten- und Tugendlehre, in *Hegel-Studies*, 17

fundamental and more final than individual and interpersonal forms of freedom and right. The family, for example, is a more adequate realization of the will than contractual relations, and the state is a more adequate form of freedom than any institution of civil society; the latter must be understood as a subordinate dimension of the political community. The general concept of a communal actualization of right is the concept of *Sittlichkeit* or "ethicality." Family, civil society, and state (and, to some extent, international politics and world history) are more or less adequate concretizations of this concept, which is the central and most fundamental concept described in the *Grundlinien*.

Hegel defines the concept of *Sittlichkeit* in the introduction to Chapter Three (§§ 142-157) of the *Grundlinien*. The character of this introduction is once again rather abstract, because it should be valid for all sorts of communities, but one's understanding is facilitated if one bears in mind that Hegel is already thinking of the state, which he sees as the most adequate realization of *Sittlichkeit*. The abstractions of §§ 142-157 form a skeleton of the body politic whose description is completed only at the end of the last part (§§ 257 ff.) of Hegel's book.

The Concept of Sittlichkeit (§ 142)

The idea of objective freedom, which, according to §§ 4-29, is the essence and actuality of right, is realized most adequately in *Sittlichkeit*. As the being-there of freedom (§ 29), right is a "world" (*Welt*) and a "second nature": "the realm of actualized freedom, the world of the spirit generated by spirit itself, as a second nature" (§ 4), or "the concept of freedom as [...] having become [actual as] the *world given here and now* and [as] the *nature of self-consciousness*" (§ 142). Alluding to the Platonic "idea of the good" and in contrast to Kant's concept of *summum bonum*, which for Hegel is only an abstract moral ideal, Hegel calls the highest and most concrete reality of freedom "the living good." Through the word "living" Hegel integrates Aristotle's characterization of the highest

(1982):97-117, revised and reprinted as "Hegels Pflichten- und Tugendlehre: Eine Analyse und Interpretation der *Grundlinien der Philosophie des Rechts* §§142-156" in Seep (ed), *Grundl.* pp 167-191.

actuality, which is the absolute foundation (*die an und für sich seiende Grundlage*) and the final, "all-moving end" (*bewegender Zweck*). As simultaneously *archē* and *telos*,² the mover (which in § 152 is also called "the unmoved") is identified with the Aristotelian "unmoved mover" (*kinoun akinēton*) and with the pure act (*energeia*)³ which, according to Hegel, realizes itself necessarily and by its own force.

The Structure of §§ 142-156

In the sections that follow his definition of *Sittlichkeit*, Hegel emphasizes that the highest form of ethicality encompasses the most perfect liberation of the singular individual. In the preceding chapter on morality, the (relative) right of individual willing subjects was discussed; it must now be shown that the subjectivity of those individuals can acquire its right only if it is integrated as a moment of a higher right.

Hegel's intention is revealed even more clearly when one notices that originally § 146 immediately followed § 142, which is evident from the following consideration. In § 146, the phrase "in *this* actual self-consciousness" (my emphasis) refers not to § 145, but to the last words of § 142 ("the concept of freedom realized as nature of self-consciousness"); §§ 143-145 are obviously a later addition. Sections 146-154 are written from the standpoint of individual subjects who ask what the ethical constitution of their community means for them; following the turning point of § 142, these sections form a continuation of the problematic discussed in §§ 121-142 but bring it to a higher level. After writing them, Hegel may have felt a need to clarify more thoroughly the notion of "ethical substance" (§ 146 ff.) with which the singular subjects are confronted, although "the laws and institutions" mentioned in § 144 and "the ethical powers" in § 145 were already represented in § 146 as "laws and powers" with "authority and power." In thematizing the objective side of ethicality in the two additional sections 144-145, Hegel must have felt the need to introduce them with a section (§ 143) in which the distinction between the objective and

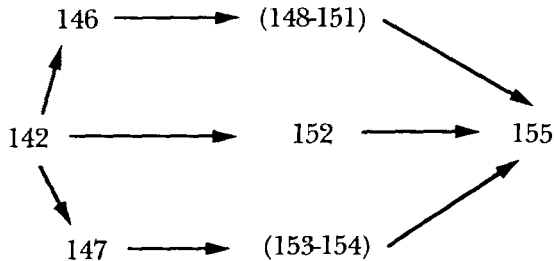
² Cf. Aristotle, *Eudemian Ethics* 1227b32-33 and *Nicomachean Ethics* 1112b23-24.

³ Cf. Aristotle, *Physics* VIII, 6 (259b24) and *Enc A* 301-302.

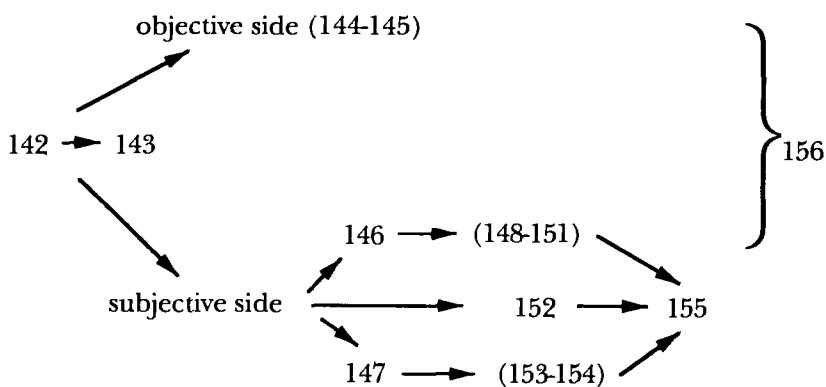
the subjective moments of the will (§§ 146-147) is presented as internal to the idea of free will. A major part of § 143 is, however, a mere repetition of the first sentence of § 146. The original scheme of §§ 142-155 must then have been the following:

- 142: The concept of *Sittlichkeit*
 The ethical substance knows itself in the self-consciousness of the (ethical) individual as
- 146: (1) independent being and power over against the subject (→148-151)
- 147: (2) the proper essence of the subject (→153-154)
- From these follow, with regard to the subject:
- 148-151: (1) *Duties* of the individual subject
- 148: Duties
- 149: Duty is liberation
- 150: The fulfillment of duties is virtue and decency (*Rechtschaffenheit*)
- 151: Ethical custom (*Sitte*)
- 152: (*Transition*.) The right of the ethical substance over against the individual
- 153-154: (2) *Rights* of the individual subject
- 155: Ethicality (*Sittlichkeit*) is the *identity of rights and duties*

The schema can also be represented in this way:



Through the addition of §§ 143-145, this schema changed into the following:



Analysis

Since the will is the spirit as active self-determination, it is not a private faculty or a possession of singular subjects. As both universal and singular, the will's full concept encompasses the idea of universal spirit *and* its singularization in human individuals. The term "and" does not imply a duality of separate worlds, but rather the actual union of two moments. The spirit "needs" individuals to realize its own willing essence; when individuals willingly determine themselves, they actualize the universality of the spirit's will in which they are united (cf. Rousseau's *volonté générale*). One cannot will separately from the universal will; all singular acts are instantiations of one supra-individual activity that binds them together. As we have seen in the previous chapter, the unity of the universal "will" and the singular "will" (mediated by the particularity of inclinations and needs, and economic, legal, and political institutions) is the idea of the "good" (§ 129).⁴

The good actualizes itself as a free, ethical life (§ 142). It is not an abstract idea — e.g., a Kantian or Fichtean ideal — that obliges the individual will and appears to the self-conscious subject as an unachievable *Sollen*. The good is concretized insofar as it actualizes itself in the self-consciousness of individuals. An ethical subject confronts the good not merely as a subjective conscience (§ 136-138), but it knows and wills the actualization of the good as the

⁴ Cf. Enc C 153R.

source (*archē*) and the perfection (*telos*) through which it achieves its own freedom and excellence (*aretē*).⁵ The schism between the mere ought (*Sollen*, § 129-134) and actual being is bridged when an acting individual wills and realizes the good (i.e., the idea of freedom willing itself) as its own end. Through this union of the individual will with the universal or ethical will the concept of freedom is actualized in the form of a "world" or "second nature." The ethical world is the place where self-consciousness is and knows itself to be at home (§ 147). "The *particular* will" of the *singular* subject (§ 143) is the presence of the spirit, which, as the highest form of activity, realizes itself necessarily.

Insofar as willing is impossible without knowledge, the ethical spirit (i.e., spirit insofar as it is ethically qualified) knows what it wills and is. Its knowledge and volition exist only in and as the knowledge and volition of individuals pursuing their own interests (§ 121-122) and concrete freedom. By acquiring ethical self-consciousness through and in ethical individuals (cf. §§ 257 and 270), the spirit has not yet reached a fully adequate self-knowledge; this lies ahead as the final stage of spiritual development, in religion and philosophy.

In spiritual self-knowledge, the *concept* of the willing spirit and the concrete *existence* of this concept (the particular actions of individual subjects) are at the same time different from and identical with one another (§ 143). Good, i.e., ethically correct, individuals know that the foundation and content of their freedom is not to be found outside the objective system of concrete institutions (§§ 144-145). Freedom is neither a utopia nor an ever-retreating ideal, but a concrete human life within the network of social institutions existing here and now (§ 153 A). However, this thesis is invalid *unless the existing institutions are indeed the appropriate and truly rational objectification of the spirit*. This qualification is necessary, although Hegel very seldom, if ever, formulates it explicitly. The reason for his silence lies in his conviction that the spirit (which is the Good and absolute Reason itself) is powerful enough to transform the world in accordance with its own demands. The (onto)logical necessities contained in the concept

⁵ See note 2 and cf. Aristotle *Nicomachean Ethics* 1097a15ff. on the unity of *eudaimonia* and *aretē*.

of spirit actualize themselves sooner or later; therefore, the history of right must be interpreted from the perspective of an ongoing process in which the existing world manifests a growing rationality. Nonetheless, Hegel is unable to predict *when* spirit's self-actualization will be fulfilled. His trust is based on Reason and his picture of ethical life is supported by his deductions, but it remains an ideal as long as evil has more than a superficial influence on the world.

Ethical self-consciousness is neither nostalgia for individual freedom nor the acquisition of a pure conscience; rather, it is a more rational sort of "*nature*" (§ 142). The inner struggle of a subject that tries to approach the good through an endless progress of *moral* improvement is here replaced by the spontaneous observance of generally accepted mores and laws (*Sitten*, § 151). Real freedom is the spiritualization of a (first) nature that has passed through a first negation in order to become a second nature or "world" of actions that respect established customs.

With respect to the consciousness of rational individuals, this means that ethical institutions (§ 144) manifest themselves, on the one side, as powers (*Mächte* and *Gewalten*, §§ 145-146) that the individuals should not resist (§ 146) and, on the other, as objective structures in which they recognize their own spiritual essence (§ 147). They know that submission to the ethical powers of a historical community is the only possibility for realizing what they, as free and rational beings, most desire. They are aware of the difference between the subjective and the substantial moment of concrete freedom, but they are also convinced that their community as a whole (if it is rational) has no other interests than the essential interests of the individuals. The community, for its part, knows that it achieves self-consciousness *only* in the conscious self-realization of its singular members. It does not will anything other than the particular will of individuals, insofar as these are led by reason. The idea of the ethical totality, which Hegel often — incorrectly — identifies with the state,⁶ and the idea of the rational (and thus good and truly ethical) individual imply one another. The norm of the practical good is the identity of both, which can be defined

⁶ Compare GrI 258 and 260 with 30R; see Chapter Ten.

from the perspective of the "state" as well as from that of the individual (§ 146).

As already noted, all of Hegel's statements in §§ 142-155 rest on the presupposition that both the ethical whole and the individual subject act in a rational way, i.e., in accordance with the "rationality" (*Vernunft*) of the true idea. The philosophy of right unfolds the *idea* of right, which, compared with all *de facto* juridical systems, is an ideal. As such, it contains the essence of all states, but the realization of this essence is always a mixture of good and bad elements; for evil, too, belongs to the reality of existing things and practices. That Hegel insists on the actuality (*Wirklichkeit*) of this ideal does not conflict with his awareness that not one state in his time conformed to the picture of the (true) state that he describes.⁷ He even deduces the necessity of evil as a component of all practical reality (§ 139A).

Supposing that both the individual and the ethical whole are actually rational, i.e., presupposing an ideal situation, Hegel can state that the singular subject does not experience the ethical substance as something alien, but as its own essence. With regard to the substance of their existing and acting together, the subject "feels itself in it" and maintains a rapport that is "more immediate and more identical than even faith and trust" (§ 147). Faith and trust already presuppose a certain distance; they are preceded by a spontaneous and naive, entirely unmediated and simply lived adherence to the ethical community of which one is a constitutive part. What Hegel does not say, although it follows with the same necessity from the identity in which such a relation is based, is that the ethical totality — presupposing rational behavior on *both* sides — can and must trust the collectivity of its members and organize itself in agreement with *their* thoughts about the rights *and duties* of the community and its authorities.

Because of his aversion to subjectivism, Hegel overemphasizes the right of the whole over against the rights of the individuals. In

⁷ This was already stressed in E. Gans's preface to the second edition of the *Grundlinien* in 1833 (edition of the *Freunde*, vol. 8) and Karl Rosenkranz in his *Apologie Hegels gegen R. Haym* (1852), pp. 36 ff. and *Hegel als Deutscher Nationalphilosoph* (1870), pp. 152-154. For the interpretation of seemingly reactionary statements of Hegel's, see *Philosophy and Politics*, pp. 53-70 and 93-103.

Hotho's notes from Hegel's course given during the winter semester of 1822-23, this is expressed in the following words:

Because the ethical determinations constitute the concept of freedom, they are the substantiality of the individual, his universal essence; the individual relates himself to them as something accidental; it matters not to the objective [reality] whether the individual exists. The objective [reality] is what remains (*das Bleibende*); it is the power by which the ethical life of the individual is ruled; it is the individual's absolutely essential [core] which, if it were abstracted from the individual, would not leave behind anything other than the empty form of subjectivity.⁸

With a bit of good will on the part of the reader, the quoted text can be understood as an overemphasis on the substantial content without which subjectivity would remain an empty form. But insofar as this text conceals the opposite truth — to wit, that the ethical substance cannot exist and is unthinkable separate from its “accidents” — the quoted statements are not only one-sided, but false, even from Hegel's own standpoint. Abstracted from the individuals' lives, knowledge, and volition, “the objective” (reality) is nothing, not even an abstract “idea” or ideal, which would include at least imaginary individuals. If, on the other hand, individuals are abstracted from objectivity, they are no longer human.

By polemicizing against individualism and subjectivism, Hegel barely escapes the opposite exaggeration. However, what he wants to show is a successful synthesis of collective (or holistic and “objective”) rights and individual (or subjective) rights. In so doing, he combines Aristotle's thesis that the political community is “prior in nature” to particular communities, such as the family and the village, and to the human individuals of which these are composed, with Spinoza's thesis concerning the relationship between the one and only substance and its *modi*: “The substance is prior in nature to its affections.”⁹

⁸ Cf. Ilt. 3, p. 485. The passage deals with § 145.

⁹ Aristotle, *Politics* I, 2 (1253a 19) and Spinoza, *Ethica* I, *proposito* 1. Cf. Karl-Heinz Ilting, “Hegels Auseinandersetzung mit der Aristotelischen Politik,” in *Philosophisches Jahrbuch* 71 (1963-64): 54-55. In pp. 56-58 of this article, the author seems to suggest that the Spinozistic character of Hegel's political philosophy after 1802 was progressively replaced with a clear relationship to Aristotle, but how can the divine “substance” of the state, which is a key concept in

A text similar to Hotho's can be found in Griesheim's notes from the winter semester of 1824-25:

Marriage, familial devotion (*Pietät*), and state are these ethical powers (*Mächte*); they rule the life of the individuals and manifest themselves as powers that are indifferent toward individuality; the individual is, as something particular over against them, a mere accident. These ethical powers have their representation (*Vorstellung*) through the individuals; the latter are the samples of those powers.¹⁰

As particular, individuals are only accidents (§145); however, according to their concept (*Begriff*) they are identical with the substance. Insofar as their will is itself simultaneously particular and universal, they are illustrations of the ethical powers. On the level of the highest practical good, the value of the individual particularity consists *only* in an exemplification.

Sections 148-155 develop the consequences that the concrete identity of the individuals with the whole has for the latter. The authority of the ethical substance (§ 146) unfolds itself as a system of duties (*Pflichten*, §§ 148-149), through the fulfillment of which individuals realize virtues (*Tugenden*, § 150) and moral customs (*Sitten*, § 151). Individual autonomy (§ 147), on the other hand, expresses itself in the fundamental rights (*Rechte*) of the individuals (§ 153-154). The transition between §§ 148-151 and §§ 153-154 is made in § 152 where Hegel reiterates that the objectively valid right (*das geltende Recht*) of the community is the identity of rational subjectivity with the ethical substance, thereby connecting the beginning of his introduction to *Sittlichkeit* (§ 142) with the end (§ 155), where *Sittlichkeit* is defined as the identity of rights and duties (cf. the schema above on pp. 385-386).

Through the structure of sections 142-155, Hegel summarizes his entire practical philosophy from the standpoint of the individual. The idea of ethicality stands at the beginning (§ 146) and at the end (§§ 155-156). In the description of its specificity (§§ 144-147), this idea shows itself as the unity of two doctrines: a

Hegel's later *Rechtsphilosophie*, be derived from Aristotle? The relationship between Hegel's philosophy of objective spirit and Spinoza's political philosophy has not yet been sufficiently investigated to permit a clear insight into all the threads of this filiation.

¹⁰ Ilt 4, p. 397 (also on GrI 145).

doctrine of duties and virtues (*Tugendlehre*, §§ 148- 151) and another about the rights (*Rechtslehre*) of the individual (§§ 153-154).¹¹

The idea has a higher right than individuals do (§ 152); it realizes itself as a people organized by a constitution (§§ 156-157). Together with some sections from the chapter "Morality," sections 148-151 contain the basic principles of Hegel's moral philosophy, insofar as this can enter into a philosophy of right, while §§ 153-154 recall the two moments of the right of subjectivity, which were analyzed in the chapters "Abstract Right" and "Morality" (§§ 34-141).

The *duties* of the individual are nothing other than the necessary determinations in which freedom (or the idea of the good) concretizes itself. They no longer appear to the self-consciousness of individuals as alien demands coming from above or from without to which the moral individual must laboriously submit, but rather as aspects of a well-organized society in which the ethical subject can feel at home (§ 148). Without the objective particularization of the substance, individuals would be either condemned to complete indeterminacy (and thus only formally free, not free in content), or delivered over to the contingent particularity of their natural drives and arbitrary interests (and then neither rational nor actually free). This alternative follows from Hegel's analysis of the concept of freedom provided in §§ 4-33 and developed in the chapter on morality. There, the first part of the alternative was refuted through a critique of Kant's formalism. Since such formalism is unable to concretize the autonomy of individuals, it necessarily degenerates into the romantic subjectivism of an absolutized and therefore evil conscience (§§ 136-141). Absolutizing the subjective conscience subordinates the idea of freedom and the good to the arbitrary subjectivity of singular individuals, thus establishing the principle of all evil. Egoism cannot be the basis of moral philosophy (§§ 136-141). The second

¹¹ The difference between Kant's and Hegel's practical philosophy does not so much lie in their analyses of moral and ethical phenomena, but rather in a more analytic versus a more synthetic approach. As we saw in the preceding chapter, Hegel accepts most of Kant's formal distinctions, but integrates them into his systematic reconstruction of the ethical life and world.

part of the alternative is obviously no solution either, because it destroys the possibility of rational autonomy.

A concrete determination of the will that makes the individual actually free, is possible only when unified with the self-determination of the *universal* will, which is the individual's most proper, rational, and innermost essence. Duties are not oppressive powers; they only appear as such to those who oppose the particularity of their singular wishes to freedom's universality. If such individuals were more rational, they would recognize that obedience to genuine duties is the way to true liberation.

In § 149 this thought is specified in the following way: when duty binds the singular will to the determinations of the universal will, it limits both (a) subjectivity, insofar as this is still an abstract, undetermined freedom, and (b) the particular drives that determine the individual as a natural, and to that extent, still unfree being. By submitting the faculty of choice (*Willkür*) to the commands of the ethical institutions, duty also limits (c) the latitude of the *Willkür*, which would otherwise be "free" to determine arbitrarily what is good and evil. Since this "freedom of subjective arbitrariness" lacks any objective measure, it abandons itself to the drives. A morally good will distances itself from natural inclinations but, unable to deduce a concrete content for its freedom, lapses into a formalism which is defenseless against the natural drives. Such a formalism leads to a subjectivistic interpretation of conscience, and this constitutes the essence of evil itself (§§ 141-142). Limitation through duty is thus the necessary negation through which freedom mediates itself with itself. By fulfilling one's duties, an individual subject liberates itself from (a) the unreality of indeterminate subjectivity, (b) natural dependence on drives, and (c) the moral reflections of a formalism incapable of satisfactorily answering the question of what one ought to do.

The speculative categories according to which Hegel here formulates the basic questions of ethics should not mislead us with regard to the underlying psychological and existential phenomena. The phenomenological pattern of the conceptual structure analyzed in § 8 is preserved in ethicality. The word *Gedrücktheit* (translated by Knox as "depression" and by Nisbet as "the burden he labours under," § 149), with which Hegel characterizes the moralism of the reflecting subject, evokes the moral brooding

from which he had himself once suffered.¹² Hotho's notebook offers the following description of an individual whose moral reflection fluctuates between the ought of indeterminate duties (cf. §§ 134-135) and the spontaneity of his inclinations:

[. . .] the human individual who is reflected in himself (*der in sich reflektierte Mensch*) is always in consultation with himself, broods in himself, without strong self-feeling (*Selbstgefühl*) and without spiritual health. Out of this illness, out of this brooding [. . .] simple duty liberates him. For in duty man acts in a universally valid way, [because] he has given up his particularity. The illness of reflection is to be particular. This is the moral unsoundness, in part depression, in part complacency (*Selbstgefälligkeit*), in which he is not actual because he is in disharmony with the objective [reality] (Ilt 3, p. 491).

In his youth Hegel himself had experienced the third form of moral praxis and moral philosophy, which is referred to in § 149. When a moral subject defends its abstract freedom against objective institutions, thereby remaining unreal, it fears the reality of any particular mode of existence. "Morbid and weak," it flees before the ethical actuality (Ilt 3, p. 491). This indeterminate subjectivity is the so-called beautiful soul; it does not want to engage in determinate relations because it wants to preserve itself in its beautiful indeterminacy (Ilt 4, p. 402). The standpoint of indeterminate subjectivity is fearful, anxious, and sentimental, but when it expresses itself — and it must express itself — it manifests itself as "political *Schwärmerei* and fanaticism, as occurred [e.g.] at the time of the Reformation and the French Revolution."¹³

When the individual's will concurs with the will of the whole, knowing that this unity is essential to true freedom, it overcomes the inner duality of conscience in its separation from the good itself. By adapting its behavior to the objective structures of a rational whole, it is good. Being good in these circumstances is neither a heroic adventure nor a laborious struggle. "Simple conformity" to the demands of a just order makes the individual

¹² Cf. *Le jeune Hegel*, pp. 12-13, 35-36, 144-161, and 231-239. I would now stress that the period of "hypochondria" belongs to the Bern period rather than to Hegel's stay in Frankfurt.

¹³ Ilt 3, pp. 491-490. Instead of "*aufrat*," I read "*austrat*." I thank Udo Rameil and Hans-Christian Lucas for their as yet unpublished corrections of Ilt's text.

"upright" or "honest" (*rechtschaffen*). However, insofar as individual subjects differ from one another through individual traits and a naturally determined character, their honesty (*Rechtschaffenheit*) bears individual traits. To this extent, one can say that every good person has her own individual virtue (*Tugend*, § 150).

Here Hegel adopts Plato's solution: the question of moral "justice" cannot be separated from the question of the good and just *polis*. In order to discover the fundamental structure and the properties of the "smaller" *dikaiosynē*, we should first write *dikaio-synē* in large letters and study it in the figure of the state.¹⁴ The doctrine of virtues is a part of political philosophy. On the basis of this thesis, the Pythagorean statement quoted in § 153R becomes understandable: the best ethical upbringing consists in making your child or pupil "a citizen of a state constituted by good laws."

Although the modern principle of subjectivity could not be integrated into Plato's philosophy, the *Politeia* remains the greatest model for Hegel's political philosophy.¹⁵ Hegel attempts to reconcile the right of the individual with the right of the ethical totality, but he stresses that the totality has the higher right, to which the rights of the individual should be subordinated and, in the case of a conflict, sacrificed.¹⁶ The all-encompassing framework remains Platonic and Greek: the totality has priority over the individual when in conflict, insofar as the individual is "only an accident." However, the upright individual is also the subjective moment through which the ethical substance is actualized; it is thus the subjective and the objective, the singular and the universal spirit in one. As such, the (ethical) subject is no longer opposed to the ethical whole; neither practically nor theoretically can it be played off against it or sacrificed to it. The existence of ethical subjects is the (only possible) actuality of the substance; the universal will would remain an unreal abstraction if it were not singularized in its "accidents."

¹⁴ *Politeia* 368cff.

¹⁵ Cf. my *Platonic Transformations* (Lanham, Maryland: Rowman & Littlefield, 1997), pp. 19-56 for a comparison of Plato's *Politeia* and Hegel's *Rechtsphilosophie*, and *Philosophy and Politics*, pp. 86-92, for the passage of the Preface to the *Grundlinien* where Hegel himself talks about the relevance of Plato's dialogue.

¹⁶ Cf. GrI 30R and 268R.

The true concept of virtue can now be defined (§ 150 & R). Virtue is a particular determination of uprightness (*Rechtschaffenheit*), which is, for its part, the subjective moment of the true *state*. A virtuous person is something particular only insofar as every individual differs by nature from other individuals with regard to “anthropological” aspects. On the level of practical spirit all honest people are identical; their differences can be reduced to their historical and geographical context, their body, and — in Kant’s sense — the “empirical character” by which they are individualized.

“Virtue,” however, has a second meaning. “The virtue” (*die Tugend*, § 150R) indicates the characteristic genius of exceptional individuals who surpass not only the honest fulfillment of their duties, but honesty as such. This kind of “virtue” or “virtue in the proper sense” (*die eigentliche Tugend*) carries subjectivistic traits. Both the average virtue discussed above and this special virtue are a kind of individual “property” (*eigentümlich*), but the first named virtue unites individuals in that it places their differences in the shadows, while “virtue proper” places the emphasis on the particularity of heroic individuals (§ 150R).

Examples of discourse on “the virtue” are some of Robespierre’s and Saint Just’s addresses that Hegel read as a student in Tübingen, along with his own early eulogies on the virtue of Greeks and Romans like Cato;¹⁷ there are also the discourses of Fries and the *Burschenschaftler*, which the mature Hegel bitterly ridiculed in the Preface of the *Grundlinien*.¹⁸ When the ethical conditions are fully developed — i.e., in a well-organized and secure state — the particular sort of virtue, which Hegel here calls “the virtue,” or “virtue in the proper sense” becomes superfluous. Only in exceptional circumstances — for instance, during a great epidemic or an outbreak of war — is more than the simple everyday uprightness

¹⁷ Cf. *Le jeune Hegel*, pp. 19-28 and 91-101. The influence of Montesquieu’s *De l’esprit des lois* and Robespierre’s discourses on Hegel’s conception of virtue (*la vertu*) is undeniable. In Hegel’s *Theologische Jugendschriften*, edited by Herman Nohl (Tübingen: Mohr, 1907), Hegel himself refers to Montesquieu (p. 223). A passage on p. 366 was clearly inspired by Robespierre’s address to the national convention on 7 February 1794. A thorough study of the influence on the young Hegel by Montesquieu, Robespierre, and the French newspapers of the revolutionary period is badly needed.

¹⁸ Cf. *Philosophy and Politics*, pp. 20-28 and 72-82.

demanded. “*The virtue*” is needed if conflicts arise between different parts of the ethical whole, but such conflicts indicate that the ethical organization is not yet or is no longer successful. In an “undeveloped” (*ungebildet*) society, heroism is indispensable for the establishment or reestablishment of a just institution, good morals, and the everyday practice of virtue. In a pre-statal state of nature, whose war and misery Hobbes impressively described, the realization of an ethical life depends on the virtue of heroes like Hercules. In chaotic circumstances, the foundation of a political and juridical order can only be a matter of individual initiatives; the lack of ethical structures demands heroic intervention. “Under a given ethical order, whose ethical relations have been fully developed and realized, it is only in exceptional circumstances or when one obligation clashes with another that virtue in the proper sense of the word is needed and actual” (§ 150R).

Hegel appears to see this “present ethical order” (*den vorhandenen sittlichen Zustand*) not as a beautiful ideal for the future, but rather as a reality of his own time — albeit imperfectly developed. Only thus can one understand why he reduces “*the virtue*,” which in his youth was still so important, to an exception or to a phenomenon of the past.¹⁹

When the present ethical situation is satisfactory, moralistic talk about “virtue” necessarily awakens suspicion. Those who forget the difficult but inconspicuous demands of everyday honesty and exhaust themselves by praising exceptional virtues or look for casuistic difficulties to create more space for sublime action, may seem highly motivated but they are not good examples of ethical behavior. Their “moral reflection” focuses on their self-consciousness: how special and needed am I! Because they demand something more sublime than normal honesty, their motives might appear noble, but Hegel unmasks their “moral standpoint” as hypocrisy (*Heuchelei*). Their preference for *the virtue* is the flipside of their contempt for the banality of everyday decency; their norm is not true universality, but the particularity of subjectivistic preferences. The absolutization of subjective particularity is, however,

¹⁹ Cf. Hegel, *Theologische Jugendschriften*, pp. 3, 5, 7, 9, 12, 17, 19-20, 31-32, 53, 70-71, 78, 152, and 366. Cf. also what Kant says in his *Kritik der praktischen Vernunft* A 276 and 279-282 (Ak. V, pp. 155 and 157 ff.) on “noble” or “supra-meritorious” (*überverdienstliche*) actions, and Enc C 450-451.

evil itself (§ 142). The moralism that raises itself above ethicality is thus a figure of evil.²⁰

Against the subjectification of virtue, the mature Hegel defines true virtue as “ethical excellence.” As such, it has a personal and a political side. The unity of custom (*Sitte*) and character (*Charakter*), which is indicated by the word (*ēthos*),²¹ is understood as “the ethical, insofar as it reflects itself in the individual and naturally determined character” (§ 150). Because uprightness is nothing other than “simple conformity [of individual behavior] to the duties” by which the ethical substance determines itself, it coincides with the *mores* (*ēthos*, *Sitte*) of an existing community (§ 151). Ethics and politics are thus — at least in part — identical. True virtue is ethical (*sittlich*) behavior, and this is only possible by adopting the existing customs (*Sitten*) of a rational “world.” The individual cannot be liberated from unreal abstractions and hypocrisy through “moral reflection” (§ 150 R) or utopian critique, but only by participation in the life of a “second nature” (§ 151).

Hegel’s stress on the “natural” character of virtue as simple conformity with rational institutions echoes Aristotle’s distinction between “self-controlled” individuals and truly virtuous persons who perform their good actions in an unconstrained and “natural” way.²² Fiercely struggling against particular drives and passions does not make us completely free from subjectivism. Some moralists go even farther; they see morality as an endless fight against self-satisfaction (§ 124R). With some exaggeration their view can be characterized by the imperative: “Do with abhorrence what duty enjoins.”²³ Hegel here joins Goethe’s and Schiller’s protest against

²⁰ Cf. also Hegel’s analysis of various forms of hypocrisy in § 141A.

²¹ Cf. Hegel’s marginal note in Ilt 2, p. 565: “*Sitte* — ἦθος — [. . .] *Gewohnheit Gebrauch* [. . .] *Sitte* — *Gewohnheit*, *Charakter* [. . .].”

²² Cf. Aristotle, *Nicomachean Ethics* 1145a15 ff.

²³ “*Mit Abscheu zu tun, was die Pflicht gebet.*” With a slight variation, Hegel apparently quotes by heart Schiller’s caricature of Kant’s moral philosophy in his distich *Entscheidung*, which should be read as a response to another distich under the title *Gewissensskrupel* (both among the distichs on “*Die Philosophen*”):

Scruples

I gladly will serve my friends, but I do it — alas! — with pleasure,
And so I am troubled by the thought that I am not virtuous.

Decision

No other advice is possible! You must seek to despise them,
And then do with abhorrence what duty enjoins you to do.

modern dualism with an appeal to the spontaneity of Greek *kalokagathia*. In Griesheim's notebook we find the following characteristic of such a harmony:

Among the Greeks, [. . .] the ethical is at the same time a question of particular character. Virtue then has the appearance that this unity of the ethical with the individual is natural.²⁴

Because virtues are spiritual transformations of the natural characters by which ethical individuals differ from one another, a complete doctrine of virtue should not only describe universal duties, but also the empirical variety of virtuous actions and habits. Such a doctrine of virtues would be a description of the spirit's (second) nature as the ethical totality of different types of action; it would present a typology of the ethical fauna or a "natural history" of the species and genera in which practical spirit reveals itself. Aristotle has written such a "natural history of the spirit" (*geistige Naturgeschichte*) in his works on moral philosophy (Ilt 4, p. 404).

Although Hegel's theory of virtue manifests the influence of Aristotle, his practical philosophy owes more to Plato; even the Aristotelian analysis of virtue as a "mean between too much and too little" plays a very subordinate role. Its relevance is restricted to the "application" (*Anwendung*) of ethical demands to the particularities of individual subjects. The concrete determination of a particular virtue is a mere expression of the fundamental concept of ethicality in the dimension of quantity: the basic identity of honesty with the ethical substance (or, in other words, the unity of the individual and the political elements in *dikaiosynē*) must be realized in a form of natural exteriority. The determinations that follow from this "application" (*Anwendung*) are contingent and superficial. In contrast to Plato's concept of the unity of virtue and the state, the role of Aristotle's *phronēsis* is inessential.

Because virtue as such belongs to the particularity of the individual, it contains contingency. The virtues have no measure in themselves; their determination is not an essential determination of the concept and therefore Aristotle pictures them as a mean against too much and too little. He has been attacked on this point

²⁴ Ilt 4, p. 403. Further on, the text reads: "Among the Greeks virtue appears in the mode of something natural, as a work of art [. . .]."

and the objection has been raised that he gives only an external [and] inessential determination; but in the field of virtue, there is no other determination than this (Ilt 4, p. 404).

In stark contrast to Aristotle's conception, the text states that virtues "have no measure in themselves." The "measure" (*das Maß*) that Hegel requires in § 17 of the *Grundlinien* to resolve the contradiction of *Willkür* in the "dialectics" of our natural drives does not therefore consist in an Aristotelian equilibrium of the passions made possible by the *orthos logos*, but rather in the more Platonic union of individual freedom with the freedom of the ethical whole. In this context, the drives and inclinations are no longer mentioned and the Aristotelian problematic of the mean is dismissed as an empirical question.²⁵ Furthermore, the Aristotelian determination of virtue is hardly broached in the long chapter devoted to measure in the *Logic*.²⁶

However, the Aristotelian concept of a "second nature" is influential for Hegel's philosophy of objective spirit.²⁷ Hegel uses the expression not only to indicate individual virtues but also to characterize the civilized community as a whole. Linking virtue to the customs of a well-constituted state through the concept of a "second nature" is an Aristotelian way of incorporating Plato's identity of individual and social justice.

Hegel regards the philosophies of Plato and Aristotle as characteristic expressions of the Greek spirit. Although the principle of subjectivity, discovered by Socrates, destroyed the ethical life of the Greek *polis*, the idea of political and ethical totality dominates Hegel's philosophy of right. Sections 142-151 in their entirety can be interpreted as a retrieval of the idea of the Greek *polis*. Many remarks on "the Ancients" and "the Greeks" that Hegel makes in commenting on §§ 147-152 support such a reading.²⁸ The rights of

²⁵ Cf. GrI 150R: "Virtues belong to applied ethics, insofar as they express the natural conditions and the subjective particularity of specific characters. To that extent they can be described as a quantitative middle between too much and too little."

²⁶ *Logic*, GW 11, pp. 192-223. Cf., however, the short passage on pp. 219-220 on morality, virtue, and right.

²⁷ Cf. Aristotle, *Nicomachean Ethics*, 1104a18 and 1104a26, and Hegel, *Logic*, GW 11, pp. 219-220. Although the expression "second nature" is not found in Aristotle's own work, it is a good rendering of his doctrine of "ethical virtues."

²⁸ Cf. Ilt 2, p. 553 and 556; 3, p. 478, 495, and 497; 4, p. 400, 403, and 409.

the individual, affirmed in §§ 153-154 and concretized in the sections on the family, civil society, and the state, do not undermine the political framework delineated in §§ 142-151. Individuals are only relative "absolutes": moments of a higher totality.

In a handwritten note to § 147R, Hegel points out that the Greeks had not yet discovered the moment of subjective conscience and morality in general (Ilt 2, p. 553). The unity of the individual subject with the ethical substance, formulated in § 147 as the identity of conscience with good customs, is illustrated by a quotation of Herodotus found in Jacobi's famous letters on Spinoza.²⁹ Commenting on this quote in the 1822-23 course, Hegel contrasts "simple natural ethicality," which "does not go into reasons," with intellectual reflection.³⁰ Whereas the *Verstand* organizes a sort of tribunal to investigate the reasons according to which the ethical reality legitimizes itself, immediate ethicality refers "to the total experience," the feeling of life, and an immediate "unity of laws and individual nature." Sooner or later, the *Verstand* must develop itself: "Man must go before this court to search for reasons." With regard to form, reflection occupies a higher level than feeling. For that reason, the *Verstand* believes that it is extraordinarily wise in comparison to the naïveté of unreflective faith and confidence. However, with regard to content, the immediate sentiment of Greek ethicality is superior, because it is not disturbed by the scissions of critical reflection. The immediate testimony to the ethical spirit of the *polis* given by the behavior of the citizens in ancient Greece contrasts with the moral reflections of those who, like Socrates, compare the facts with the idea of what ought to be and are no longer satisfied with the political situation of their time. Their problem cannot be solved by reflection alone, because it cannot move beyond the discovery of a never-ending *Sollen*, the realization of which would demand an endless process of approximation. The only possibility for overcoming the scission consists in a second immediacy or second "naturality," i.e., in

²⁹ Cf. Ilt 2, pp. 553-555. Cf. Herodotus, *Historiae* VII, 128-137 and Friedrich Heinrich Jacobi, *Über die Lehre des Spinoza*, Breslau 1789, p. 240, and *Schriften zum Spinozastreit*, edited by Klaus Hammacher and Irmgard-Maria Piske (Hamburg: Meiner, 1998), p. 131.

³⁰ Ilt 3, pp. 487-488. Cf. also Ilt 4, p. 400.

participation in some new form of ethical actuality, whose rationality is known and recognized by the individual participants.

No duties exist for a naïve or unselfconscious life, because its subject has no distance from the established mores and laws. To this extent, it has "no conscience" (Ilt 2, p. 553). However, when its unreflective naturalness passes over into critical reflection, the positive and negative consequences of the scission arise. The subject that recognizes duties knows that the content of ethical life is freedom itself and not natural processes, but it is in danger of believing itself to be raised above naïve ethicality, even if, in its vanity, it is unable to find any content for its morality (Ilt 3, pp. 488-489).

The argument of §§ 148-151 leads into the summary of § 152: "The *ethical substantiality*," i.e., the world as objective actualization of the spirit, which — as "*Sittlichkeit*," "*das Sittliche*" or "*die[sittliche] Substanz*" — is the subject³¹ of the entire development from § 142 through § 151, exists as a valid system of laws and rights. The dualism of an abstract conscience in opposition to an equally abstract concept of the good (i.e., the entire dimension of morality) is overcome, but the singular moral subject retains its right: subjectivity is the necessary — and to that extent absolute — *form*, thanks to which the ethical substance is actual. It is the great merit of Kant's formalism to have made this insight possible. However, Kant did not fully recognize that the complete content of the will can only be found in the necessary determinations of the universal substance. Rational action is not possible unless it is moved or driven by a transindividual and "unmoved" end-in-itself. By giving up its independence with regard to the objective determinations of the ethical substance, conscience acquires a universal and necessary content.

For the subject, nothing remains but to be the pure form, in which ethicality works. Subjectivity as such is only the form of the manifestation of ethicality, and the subject is ethical only insofar as it does not have anything particular over against the ethical, against the substance. It is entirely at home (*bei sich*) in it, because it has itself therein as its object (Ilt 4, p. 410).

³¹ In §§ 142, 144, 146, 150 and 151 it also appears as the grammatical subject.

Consequences for Moral Behavior and Ethics

Moral will, moral reflection, conscience, personal dignity, and the particular needs of the individual are not eliminated but rather are integrated into the actuality of the "ethical" order. That they come into their own precisely by becoming parts of politics, follows from the identity of individual freedom with the freedom of the community. This is stated explicitly in §§ 153-154. In the first two chapters (§§ 34-141), Hegel has discussed the formal structure of the rights of individual subjects and their yet to be resolved opposition to the concept of the good. The concrete realization of these individual rights within the "ethical" dimension is deduced in the theory of civil society, but this does not modify the all-encompassing framework outlined in §§ 142-152. The principles and the content of a concrete moral philosophy are established in the introduction to the chapter on *Sittlichkeit*, not in the merely formal considerations of the chapter on morality. The only places where Hegel explicitly deals with a doctrine of particular duties in the style of Kant's *Doctrine of Virtues* are the foundational sections of the third chapter, particularly in his remark on § 148. Here he identifies the "objective" doctrine of duties (*Pflichtenlehre*) with a part of the doctrine of *mores* (*Sittenlehre*) or, as he calls it, with the "circle of ethical necessity." Using the word "objective" to indicate something whose content is not determined by the subjectivity of free choice, Hegel contrasts the objective determination of duties with the formal principle of morality. As Kant has shown, the concept of duty is contained in the relation of the moral subject to the principle of the good (§ 133), but this relation yields only a formal determination of duty, not a content. The necessary but empty principle of moral subjectivity cannot "objectively" determine the content of our duties. An objective doctrine of duties is possible only on the level of the ethical (*das Sittliche* or *das Ethische*),³² but it presupposes an analysis of the formal or "moral" aspects of duty (§ 133 ff.). The moral point of view is only a formal and as such empty, but necessary, moment of ethics.

³² In a marginal note on § 148 (Ilt 2, p. 557), Hegel points to the distinction between "*ethisch*" and "*moralisch*." Cf. also the end of Hegel's Remark on § 33.

The concrete duties of human individuals can thus simply be read off from the necessities and demands of *Sittlichkeit*. It can and must be said of every ethical determination that is explicated in the third and only concrete chapter of the *Grundlinien* that it is a duty for the individual human subject (§ 148R). *On the supposition that the given situation is a completely rational one*, Hegel can claim:

What man must do, *which* duties he has to fulfill to be virtuous, is easy to say in an ethical community: he has to do nothing other than that which in his situation is [already] traced out, formulated and well-known (§ 150R).

Concrete moral philosophy is nothing other than the subjective aspect of the ethical community.

An immanent and consistent doctrine of duties can [...] be nothing other than the development of those *relationships* that are necessitated by the idea of freedom and that are therefore entirely *actual*, to wit in the state (§ 148R).

Hegel's identification of the ethical whole with the state seems to contradict his remark in § 30R, where he declares that the rights and interests of the state, just as those of the moral subject, are limited and subordinate, whereas "only the right of the world-spirit is absolute without qualification." But even when the full actuality of ethical life is understood as the political organization of humankind in its entirety or as universal history, this cannot change the principle that a concrete moral philosophy is possible only as *ethics*, that is, as a subordinate part of a doctrine of politics and world-history.

Looking back, we must reiterate that Hegel's treatment of morality in the second chapter of the *Grundlinien* does not contain his moral philosophy, but only an analysis of its formal moments. The words *Moralität* and *moralisch* denote *abstract* considerations of questions concerning the *subjective* aspects of *individual conscience*. The moral dimension of morality is governed by duality and an unresolved *Sollen*. Therefore, it cannot have the last word, not even with regard to the duties of the individual, let alone with regard to the state and world-history.

The following is a clear example of Hegel's terminology, which at the same time offers a summary of his argument:

On the moral standpoint, as it is distinguished in this treatise from the ethical standpoint, formal conscience alone is the issue. True

conscience has been mentioned only to indicate its difference [from the moral conscience] and to remove the possible misunderstanding that here, where only formal conscience is under consideration, the argument is about true conscience. The latter is contained in the ethical disposition (*Gesinnung*), which comes to the fore only hereafter (§ 137R).

Hegel's Concrete Ethics

The application of the principle formulated in § 150R to Hegel's theory of ethicality, an application which presupposes the entire doctrine of his *Rechtsphilosophie*, would result in the following duties:

I. Once history has reached the stage of modern politics that is roughly the situation of Europe after 1815, human individuals must marry (§ 162R), love their spouses (§§ 161-162) within the framework of a monogamous marriage (§ 167), spiritualize their sexual drives (§§ 163-166), acquire and administer a family capital (§§ 170-172), love and educate their children (§§ 173-174). Children must likewise love and obey their parents (§§ 174-175).

II. As members of the civil society (§ 187), individuals should satisfy their needs and the needs of others through labor (§§ 187 and 196 ff.), receive education and civilize themselves (§§ 187 and 197), adhere to a particular *Stand* (§ 206) and fulfill the specific duties and rights that go with it (§ 207). They must respect the rights of every person (§§ 34-102, 134, and 209 ff.), follow the laws of their country (§ 211 ff.), submit to the rules of the legal system and to the judgment of the courts if they are tried (§ 219 ff.), further their own general well-being and the well-being of other individuals (§§ 125, 130, 134, and 230 ff.), take responsibility for the education of the citizens (§ 239), and, if they belong to the second *Stand*, become loyal members of a corporation (§ 250 ff.).

III. As citizens of a well-organized state, individuals must subordinate the whole sphere of their private lives (including their private rights and well-being, those of their family, their corporation, and their class) to the final purpose of politics (§ 261) and obey the laws in a patriotic spirit (§ 268). They should loyally take part in political life and fulfill political tasks that might be entrusted to them (§§ 257-319, and 337). If unfortunate situations such as war make it necessary, they must also sacrifice their possessions, including their life, for the state (§§ 324-328).

Among the duties the state imposes on its citizens, Hegel also places the duty to adhere to a religion that does not contradict the basic institutions and assumptions of that state (§§ 270 and 270R). The reason for this is that a person without religion cannot be aware of the state's spiritual foundations and thus will lack the right political disposition. To what extent religion imposes its own specific duties remains unclear, at least in the *Grundlinien*, although some statements do seem to imply the existence of "religious duties."³³

It is, likewise, not altogether clear whether any duties — and, if any, which ones — follow from the supranational history of humankind. If we apply the principles of § 30R and §150R consistently, we ought to hold that individuals are *not* permitted to venerate their own state as if it were the highest and most absolute end, but ought to participate consciously in the history of the entire human race, in which all states and realms perish one after the other.³⁴ Although world-history is one long series of violent events, the rational spirit manifests itself in it (§ 342); individuals should therefore submit to the spiritual providence that forces nations to perish for the sake of ascending nations. Even the most terrible fate of a nation is then an expression of absolute wisdom. *Amor fati* thus belongs to actual religiosity and good persons submit themselves to the highest tribunal (§ 341). A few world-historical individuals, such as Alexander, Caesar, and Napoleon, have other exceptional tasks to perform (along with special rights and duties) beyond the average level of obedience, because the spiritual substance needs them for its renewal (§§ 348, 350). However, Hegel is extremely reticent to draw the moral consequences from his theory of world history, as we will see; nationalism remains for him the moral framework for individuals, and little or nothing is found in his work about a supranational, truly humanitarian morality.

The list of duties that follow from Hegel's principles can be further specified and, if necessary, completed on the basis of the principle explained in § 150R. Hegel never published a treatise on

³³ Cf., for example, § 137R toward the end ("Religious conscience does not belong in this circle at all") and §261R ("religious duties are here not at issue").

³⁴ Cf. Chapter Twelve.

duties; perhaps he found the work of application, an outline of which has been sketched here, too unphilosophical. What he fights against is not morality and moral theory as such, but a moral philosophy that rejects objective demands in the name of subjectivistic ideals. If the existent *Sittlichkeit* deserves criticism — and *all Sittlichkeit* up to his time, including that of Prussia in 1820, has deserved criticism, as Hegel's courses and publications clearly show — the standard for our judgments cannot consist in a subjective ideal but rather in a world order more rational than the present one (which will then also condition a better morality). According to Hegel, a moral theory that neglects ethical, familial, economic, and political problems unavoidably becomes a plaything of subjective opinions and arbitrary choices. Anarchy and rampant violence will be the result.

The final remark of § 150R is reminiscent of § 19: the ends of our drives cannot be justified unless they are transformed into ethical ends. By integrating our natural inclinations, the free spirit lends them a rational form. Through spiritualization, human nature becomes the subject of rights and duties.

In conclusion, the following schema might help to show the coherence of Hegel's treatise on the concept of *Sittlichkeit*, while at the same time illustrating how the text can be structured in a way that differs from the one suggested at the beginning of this chapter.

142: The *concept* of ethicality

143-155: *Analysis*

143: The idea knows itself as in-itself-differentiated totality

144-145: a) The objective moment

146-147: b) The subjective moment

148-151: a) Duties (148-149) → Virtue (150)
→ Mores (151)

152-154: b) Rights

152: Rights of the ethical substance

153: Rights of the individual subject

154: Rights of the particular individual

155: c) Unity of rights and duties

156: The *actuality* of ethicality: family and people

157: Division

CHAPTER EIGHT

THE FAMILY

If *Sittlichkeit* is the concrete coincidence of the universal and the individual aspects of free will, the identity of the common good and individual freedom, and the perfect union of singular humans with their community, it is obvious that a network of contractual relations cannot realize this idea adequately. Even the associations and corporations that form the civil society cannot bridge the gap between an order based on relationships among private individuals and the ethical order of a true community.

There are for Hegel only two institutions that adequately concretize the concept of *Sittlichkeit* as it is explained in §§ 142-157: the family and the state. Before we study the complex structure of the latter, the analysis of the family will give us an idea of the unity that, *mutatis mutandis*, is essential for any community. Moreover, since the family is a constitutive element of all states, full insight into the essence of the latter presupposes an understanding of the former.¹

¹ Hegel's theory of the family has rarely been studied in detail. One reason for this general disinterest might lie in its conservative character; another could be that it is a rather isolated piece of his ethical philosophy, almost without functional connections with other parts. The logical structure of Hegel's argument is interesting, however, and deserves attention. While Reyburn, pp. 204-213, gives a good overview, many commentators hardly mention the family. *Materialien 2* does not list any study on it in its bibliography, but contains an essay by Siegfried Blasche: "Natürliche Sittlichkeit und bürgerliche Gesellschaft: Hegels Konstruktion der Familie als sittliche Intimität im entsittlichten Leben" (pp. 312-337). This essay offers interesting observations on the history and sociology of the family but its rendering and Horkheimerian critique of Hegel's theory remain rather external. More congenial reconstructions of Hegel's conception are found in Merold Westphal's "Hegel's Radical Idealism: Family and State as Ethical Communities," in his *Hegel, Freedom, and Modernity* (Albany: State University of New York Press, 1992), pp. 37-54, and in Christoph Jermann's contribution to *Anspruch und Leistung*, pp. 145-165. Rudolf J. Siebert follows Hegel's conception of love, marriage, and the family from his early writings to the *Rechtsphilosophie* of 1820 in "Hegel's Concept of Marriage and Family: The Origin of Subjective Freedom" (a debatable title), in Donald Phillip Verene (ed.), *Hegel's Social and Political Thought* (Atlantic Highlands: Humanities Press,

Though Hegel appears to forget the family when he begins to unfold his theory of the state, he does affirm the principle that a state cannot exist without the institutions of marriage and family, as the following quotes indicate.

The proper beginning and first foundation of states has correctly been identified as the introduction of agriculture together with the introduction of marriage [...] The features that recommend these institutions in the first place are nothing other than [the properties that characterize them as] forms of universality and configurations [that show] how rationality, the absolute end, makes itself valid (§ 203R).

Marriage, and essentially monogamy, is one of the absolute principles on which the *Sittlichkeit* of a community rests; the establishment of marriage is therefore seen as one of the moments of the divine or heroic foundation of the states (§ 167R).

The family of a monogamous couple is thus presented as a pillar of the ideal state. But Hegel tells us little about the political function and relevance of the family; he does not even state explicitly that a state cannot exist if its citizens do not engage in the procreation and education of future citizens who will survive their parents. A partial explanation for his silence on the political significance of the family might lie in his opinion that only men, who are the natural heads of the families, are fit for political activities (§ 166). Their involvement in politics is distinct from their roles as husband and father, while women, according to Hegel, should not be involved in politics at all.

The relation between the family and the state emphasized in §§ 158-181 is the relation between an affective union of a small number of people and the conceptual union of many. The family is a community of love; the state is a union of reason and will. This relation parallels the relation between religion, which is also

1980), pp. 177-214. Cf. also Joan B. Landes, "Hegel's Conception of the Family" in J.B. Elshtain (ed.), *The Family in Political Thought* (Amherst: University of Massachusetts Press, 1982), pp. 125-144, and Constantin Despotopoulos, "Hegel et Aristote sur la famille," in *Hegel-Jahrbuch* 1984-85: 215-219. On the position of women in marriage according to Hegel, see Joanna Hodge, "Women and the Hegelian State," in Ellen Kennedy and Susan Mendus (eds.), *Women in Western Political Philosophy* (New York: St. Martin's Press, 1987), pp. 127-158, and Charlotte Annerl, "Hegels Konzept der bürgerlichen Familie im Kontext der Suche nach einer feministischen Weiblichkeitstheorie," in *Hegel-Studien* 27 (1992): 53-75.

affective, and philosophy, or *Wissenschaft*, as the unfolding of conceptual knowledge.²

Love (§§ 158-168)

As a concrete configuration of ethical freedom, the family actualizes the substance of the spirit, which is at the same time subjective in its individual "accidents" (§ 163R; cf. Enc A § 98). It actualizes reason as self-determination, but the way in which it does this is affective: in the family, reason, as free will, takes the form of a "feeling unity" (*empfindende Einheit*), that is, of "love" (*Liebe*):

In the manuscripts of his youth, especially those written between 1791-93 and 1797-1800, Hegel often pondered the meaning and fundamental role of feeling (*Gefühl* and *Empfindung*) and love.³ The context was most often religious in a specific sense. Until 1800, Hegel regarded religion, feeling, and love as deeper and higher than reflection, conceptuality, and philosophy. After becoming a professor of philosophy in 1801, he reversed the roles: conceptual knowledge became the most adequate response to the reality, while the empirical, representative, or affective forms of knowledge were only partial and imperfect. Reason deserves faith: it can integrate and comprehend all that seems mysterious to lower forms of awareness.

² Within Hegel's system, the relation between the family and the state, as well as that between religion and philosophy, run parallel with his distinction between feeling (*Gefühl*, *Empfindung*) and thinking (*Denken*), which — together with representation (*Vorstellung*) — structure the theoretical spirit in his psychology. The first and the third levels of *Sittlichkeit* retrieve the first and third levels of the theoretical part of *subjective* spirit and are retrieved in the second and third levels of absolute spirit.

Thought	—	State	—	Knowledge (<i>Wissenschaft</i>)
Representation				
Feeling	—	Family	—	Religion

The threefold structure of the subjective *practical* spirit can be inserted into this schema when it is seen that Hegel treats (practical) *feeling*, *striving*, and *willing* as practical counterparts to (theoretical) *feeling*, *representation*, and *thinking*. Cf. Enc A 369, 373, 385, 389, 392, and 400; BC 447, 451, 471, 473, and 481. We will see below that Hegel uses the same distinction to describe the difference between man and woman. See also note 8. The schema then takes the following form:

Man	—	Thinking	—	Willing	—	State
		Representation	—	Drives/Happiness		
Woman	—	Feeling	—	Feeling	—	Religion

³ Cf. *Le jeune Hegel*, pp. 15-42 and 169-200.

In Hegel's mature work, especially in the *Encyclopedia* and the *Grundlinien*, many passages seem to denigrate the role of feeling. Most often their condemnation can be explained as a polemical reaction out of irritation with sentimental or romantic enemies of speculative philosophy. Part of the explanation might also lie in an overreaction to his own past. Was the sudden conversion from "religion" to speculative philosophy too sudden, perhaps even somewhat inauthentic? It is difficult to find passages in Hegel's later work that treat affectivity in a balanced and nuanced way; most often, feelings are unfavorably contrasted with the more adequate, i.e., rational and conceptual, level of the truth. "Love" remains important in two ways: (1) as the emotional expression of the rational will that constitutes the family, and (2) as a universal but subordinate experience of reality in religion. But the full truth of love can be discovered only by thinking.

The loving character of the family constitutes both its union and the immediacy of this institution. As a union, the family integrates parents and children as members of one whole. As such, they are not persons in the sense defined in Hegel's chapter on Abstract Right, but rather Mitglieder, i.e., "(co-)members" of one person: the family. As long as they remain members of this community, they do not confront one another as independent subjects of rights. Their right is to share in the collective right of the family to which they belong, and their appropriate disposition is the awareness of being integrative moments of a common essence (§§ 158-159). Here we thus see a first correction of the abstract thesis about private property defended in the chapter on Abstract Right: common property is possible and obligatory, if the community of owners constitutes one (ethical) "person."

The members of a family cannot even possess property separately, because private property presupposes a separate personality, which can only exist outside the family. Private property therefore presupposes that the owner has not yet entered or has already left the familial communion (§ 159). As we will see below, the latter is possible in several ways.

The immediacy of love lies in its quasi-natural character: it emerges from particular inclinations and attractions that unite certain individuals through the shared feeling of being parts of one whole. Hegel understands love as a fusion: though the union

does not destroy the individual wills of the persons involved, it does abolish their independence and separation, as he explicitly states in § 158 and § 162. Love “as immediate substantiality of the spirit” and “self- feeling unity” [. . .] is a

disposition that has self-consciousness of one’s individuality in this unity as essential in and for itself, in order to be, in this unity, not a person for oneself but a member (§ 158).

The objective point of departure [of marriage] is the free consent of both persons [...] to constitute one person, [i.e.,] to give up their singular personality in that unity, which, in this respect, is a self-limitation, but [in truth], precisely because they acquire their substantial self-consciousness in it, is their liberation (§ 162).

The unity of different individuals in the family constitutes the subjectivity of one substance (§ 163R). The element of individual responsibility, without which love becomes sentimental, is nowhere emphasized in Hegel’s work. He probably fears that the admission of a plural self-determination within the union would reduce this union to a contract.

If anything is clear to Hegel, it is that a true communion, such as the family or the state, cannot be structured as a contract. The commonly held good that for a moment issues from different wills during the transition of property from one individual to another differs radically from the unique good in which family members share. The analysis of abstract right already showed that marriage can not be a contract because, in a contract, the identity of two (or more) wills is posited by the choices of those wills, whereas a true union of wills cannot depend on contingent decisions of whether or not to join and to continue to join. As the result of a supra-individual or “universal” will, the unity must precede the decisions of any *Willkür* (§ 75 & R).

Certainly, prior to a marriage, the individuals who are to be married are independent persons. Their decision to marry might follow from their falling in love, from the will of their parents, or from other reasons and motivations. The question of how they arrive at their decision does not effect the essential issue, however. All reasons are contingent except one: it is an ethical duty that persons marry. The will of a singular person must join together with the will of another to transcend their own privacy by becoming moments of a higher actuality. A “substantial” community then

liberates both persons from their dependence on natural drives and passions, thereby granting them true freedom.⁴

Although its preparation depends on contingent factors and arbitrary decisions, marriage itself is produced by “the ethical spirit” itself, which is independent of these individuals and their interests (§ 163R). The spirit’s substantial will that expresses itself in the wedding of this or that couple (i.e., the universal will which is the core of everybody’s own will), is actualized when two persons choose to enter the marital union. But how can we doubt that such an event has the structure of a contract? Hegel does not deny this, but he explains that the purpose of this exceptional kind of contract lies in the overcoming of its own contingency:

Marriage is not the relation of a contract concerning its essential foundation [...], for, it [...] takes its departure from the standpoint of a contract in order to sublate it. The identification of personalities that makes the family one person and its members accidents [...] is the ethical spirit [...] (§ 163R).

Referring to the Logic (Enc A 98), Hegel reminds the reader that “the substance essentially is the relation of [the] accidents to the substance itself.” As I have explained in Chapter One, the substance should not be understood as a thing or god or support radically distinct from the accidents, but on the contrary, as the totality of the accidents in their mutual relations and their union with one another. As original union and unity of the accidents, the substance is different from its accidental moments, however. This is clear if unity and union are taken seriously. It is therefore no less unHegelian to explain away the substance by interpreting it as some sort of mutual recognition (without anything that originates and encompasses the accidents involved), than it is to eliminate Hegel’s “spirit” by making it synonymous with “mentality.” The joint decision to be married transforms two unmarried persons into moments of a new, unified “person.” The will of this new person or superperson is the spirit itself insofar as it objectifies itself in institutionalized love. The essence of marriage depends on the unification of two wills, which is expressed in the wedding

⁴ § 162. Cf. § 149, where the liberation, “which the person has in duty,” is explained as liberation from (a) dependence on merely natural drives, (b) depressing moralism, and (c) unreal subjectivism. See above Chapter Seven (*Sittlichkeit*), pp. 393-394.

ceremony (§ 164), but the normal and natural expression of this voluntary unity is the emotional union of mutual love.

Marriage and the family are not institutions of civil society; they have a “religious character” and demand a religious disposition. *Pietas*, piety, is the virtue that corresponds to their substantial or “divine” essence, which the ancients represented in the Penates (§ 163R, cf. § 257R). To avoid misinterpretation of these solemn words, Hegel issues the warning that voluntary union, as the essence of marriage, should not be separated from its corporeal and sexual realization. Although the erotic and sexual aspects of love should not be hailed as the quintessence of this union (§ 164R), neither should they be separated from it. Hegel recognizes the link between the misunderstanding of love as “platonic love,” which despises sexuality, and “the monkish conception” of love, which, in his interpretation, would consider nature, life, and sexuality to be dirty and bad.

While it is debatable whether the condemnation of sexuality belongs to the tradition of “the monks,”⁵ for the purposes of this book the more interesting question is whether Hegel himself shows how marriage, love, and sexuality are integrated into one another.

In the first section on marriage (§ 161), Hegel states that this spiritual and ethical institution contains the moment of natural vitality in its completeness. This includes life with all its vegetative, animal, and anthropological properties and processes. For love, union, and marriage, the process of what Hegel calls *Gattung* (*Gattungsprozeß*) is especially relevant. For the explanation of it, he refers to the logic and the philosophy of nature as explicated in his *Encyclopedia* (A 167-168 and 288-290).

The meaning of the word “*Gattung*” is species, genus, race, breed, but in the context of sexuality and marriage, Hegel also hears in it a reference to the *Begattung*, which means pairing, mating, copulation (cf. Enc C 369-370). The two meanings are connected in the following way.

⁵ Hegel’s criticism of the “monkish” hostility toward the realities of a worldly life (individual autonomy, property, sexuality, etc.), is part of his diagnosis of Catholicism as an alienated, unfree version of the true religion. See his fierce attack in Enc C 552R.

An individual is a singular instance of a species (*Gattung*) and a subject that maintains itself through assimilation of an inorganic or organic nature. The species, which is the individual's substantial universality, differentiates and expresses itself as a relation between two individual subjects of the same species when life shows its internal differentiation as sexual difference (A 167, cf. BC 220). This difference is actualized through a process in which, after mating, copulation, and gestation, a new individual is born. Since this process reproduces the species, it is called *Gattungsprozeß*. The individuals whose sexual difference and union made procreation possible, are then replaced by their offspring for the task of maintaining the species. The procreating individuals dissolve into the ongoing universality of the species (Enc A 168, cf. BC 221).

This short analysis is found in two pages of the *Logic* of 1816 (GW 12, 189-191) and toward the end of the first part of the *Encyclopedia*, where the absolute idea (A 183-191) is comprehended as the unity of life (§§ 164-168) and knowledge (§§ 169-182). It is repeated almost verbatim in the second and third editions of the *Encyclopedia* (§§ 220-221). By giving a logical analysis of sexual difference, species as a process, procreation, and reproduction, Hegel introduces these phenomena into the predicates of the idea, i.e., into the cosmos of thoughts that "precede" the existence of the real world. They must therefore be realized in nature as well as in the world of spirit. The *natural* concretization of life as *Gattungsprozeß* is given in the third part of Hegel's *Philosophy of Nature*, toward the end of "organic physics," which encompasses geology and biology. The analysis presented here is essentially the same as in the *Logic* but somewhat more concrete, because the issue is no longer the idea of life in general, but rather the more concrete life of plants and animals.

The rudimentary *Gattungsprozeß* of plants is treated in two sentences only (Enc A 271- 272). In animals, the non-coincidence of the universal species with the singularity of its instances is expressed in the disjunction of the sexual difference, which opposes one animal to another. The singular animal is the reality of its species, but it is not itself identical with the species it embodies. It feels this inadequacy as a lack. This generates a drive (*Trieb*) to overcome its own deficiency by feeling itself in another

instantiation of the same species.⁶ The sexual union of two animals is an attempt to abolish the difference between the universal and the singular aspects of their life. The new animal procreated through this union appears as a confirmation of its parents' attempt: the species has concretized itself in an individual that both is and shows the identity of two other individuals. However, the identity of universality and individuality is here an appearance rather than a true actuality: the individuation of the universal occurs only in the form of an endless repetition of the same. It does not yield one totality in which the species would possess its own differentiations as members of its unity. This is only possible on the level of spirit. In the dimension of nature, the endless procreation of the same is the highest possible stage in life.⁷

How does Hegel transpose his theory of sexual difference, union, and procreation among animals to the level of human existence? If he wants to avoid a manicheistic or, as he calls it, "monkish" conception of sexuality, he must show how *human* sexuality essentially differs from animal sexuality by its anthropological character. The same is true of eating and drinking, sleeping and waking, sensibility, and corporeality in general. Hegel's theory of the human soul or "anthropology" (Enc A 306 ff.) is the framework in which descriptions and analyses should be given that focus on the typically human forms of "animality." In the *Encyclopedia* of 1817, we do find considerations about human sleeping and waking (§§ 315-316), and even about climatic and other natural influences on the human body (§§ 311-313), but nothing about eating or sexuality. Only in the second and third editions of the *Encyclopedia* is the difference between man and woman mentioned (BC 397), but even there any description of sexuality as a human phenomenon is completely absent. The conclusion must

⁶ This explanation is transposed to the dimension of the family when Hegel, in § 167, tries to prove the monogamous essence of marriage. One can be conscious of oneself in the other only if both oneself and the other give their entire undivided personality to one another. Only then are the personalities of each melded together in the one supra-individual personality of the family.

⁷ Enc A 288-290. In Enc B 367-369, Hegel gives a modified version, without changing the main lines of the argument, while in Enc C 366 and 369-370 the argument itself is modified.

be that Hegel understands sexuality as a phenomenon whose essence is subhuman. In the chapter on the family, he argues that its naturalness can and must be transformed into an ethical phenomenon, but he does not explain how the humanization — or, as he would say, the spiritualization — of animal sexuality, copulation, and procreation is possible and real. Love is presented as the human way of feeling that replaces animal attraction; but how is it possible that a human body lends itself to loving gestures and exchanges so that it can become the expression of an ethical union? If human sexuality were not different from that of cows or dogs and if love cannot be “platonic,” it can only be the façade for something very brutish. Is Hegel himself, despite his own monistic claims, a victim of the old (“monkish”?) dualism that runs throughout Western civilization?

Hegel’s intention is certainly oriented toward a harmony of spirit and nature, but the primacy of spirit is emphasized again and again. Nature receives its meaning from the spirit, insofar as spirit can express itself in it or possess it as property or use it as an incarnation of its spiritual possibilities. The sexual difference of animals receives a human meaning when it becomes the expression of human love, which is good if it actualizes the ideal of freedom in the ethical institution of the procreative union. “The moment of *natural* vitality [...] as actuality of the *Gattung* and its process” and “the external unity of natural sexes” become moments of the *spiritual*, self-conscious love, which is “the *immediate ethical relation*” (Grl 161). As ethical disposition, love “reduces the natural drive to the modality of a natural moment that becomes extinct in its very satisfaction” (§ 163). “The sensual moment, which belongs to natural vitality, is posited as a consequence and accident of the ethical relationship.” That moment is only external and contingent: “the ethical conjunction can also be exhausted in mutual love and assistance alone” (§ 164). It is only through the rationality expressed in marital union that “the natural determination of both sexes receives [...] intellectual and ethical meaning.” The vital aspect is only the concretization, not the origin of the ethical substantiality (§ 165).

According to Hegel, the difference between man and woman is not primarily a natural fact, but rather a manifestation of the spirit realizing itself in two of its dimensions: the higher one of knowing

and willing, and the lower one of feeling (*Empfindung*).⁸ The idea (not an empirical description) of the male character is that of a self-conscious, independent person, who knows and comprehends the universal aspect of things and wants to realize objective goals. He is at home in the actual, substantial and public life of politics and science, struggling with the world and himself. As a fighter, he is not easily reconciled: "independent oneness with himself" can be conquered only through a difficult combat on all fronts.

The idea of womanhood (again not the empirical description of the average woman, but the "ideal" paradigm) is characterized as spontaneous unity in oneself. Feminine spirituality is the kind of knowing and willing that takes places in feeling; it focuses on concrete details rather than the universal ideas and ideals dear to men. The natural milieu of the woman is not the state, but rather the family, in which she represents the ethical virtue of the ancient *pietas* (§ 163R).

While the man represents the active, objective, and powerful aspect of the spirit, the woman represents its passive, subjective, and peaceful aspect. Their relations parallel the relations between state and family. The male and the female characters are somehow complementary, but the hierarchy prevails. The dividedness of the man might seem to be a disadvantage, but the self-identity that is won through the struggle is higher and more spiritual than the one that is like a gift of nature (cf. Su 7, pp. 318-319).

Hegel's characterization of men and women is an adaptation of the then traditional conception to the parameters of his logic. As the natural or immediate form of the ethical spirit, the female spirit and the family are presented as a basic, but wholly subordinate, configuration of *Sittlichkeit*. However, he ignores the whole

⁸ For Hegel's interpretation of the differences between man and woman, see GrI 165-166, Enc BC 397, the course notes of Wannenman in Wa 96-97 and those of Hotho and Griesheim in Ilt 3, pp. 523-535, and 4, pp. 439-444, and the course on the philosophy of spirit (1927-28), edited by Hespe and Tuschling in Vorl 13, pp. 56-59. The latter course gives the most extensive description, but all follow the same line. Rather than providing a detailed description of the empirical phenomena, Hegel applies standard categories of his system to the sexual difference. On the one side, he lists the series universal, spirit, objectivity, power, work, intellect, activity, scission, desire, politics, science, and philosophy, and on the other, nature, particularity, subjectivity, heart, feeling, enthusiasm, union, rest, etc. Each series forms a constellation, which he then uses to describe the character and the world of "man" and "woman."

issue as soon as he has demonstrated that a non-contractual union is possible and real. What interests Hegel is not so much how human lives are marked by their intimate relations and obligations, but rather how the public, powerful, and world historical patterns shape the universe.

Unity and Dispersion (§§ 169-172 and 178-181)

Love, according to Hegel, is a gift of one's entire personality to the other. Nothing is held back; one's singular existence is not divided into a part that becomes common property, and another part that remains private. Both individuals are conscious of forming together one collective person; your existence is as much mine as it is yours and vice versa (§ 167). If this is true, we form one personality with two overlapping or partially identical consciousnesses. Hegel concludes that this implies a monogamous structure. However, if two persons can melt into one, why not three or more? Hegel would probably answer that the duality is suggested by the sexual difference. Such an answer would presuppose that the spirit must follow the suggestions of nature. Since Hegel sees the natural difference as a consequence and expression of the ideal difference, obedience to natural suggestions is obedience (of the human spirit) to the (creative) spirit as manifest in nature. Obedience is then a return of the Spirit to itself.

From the unity of the family's personality, the individuality of its property follows. For this collective kind of property Hegel uses another name, however: he calls it *Vermögen*.⁹ Did he avoid the expression *Eigentum* because he felt that it would overemphasize the ownness (*Eigenheit*) and therewith the privacy of property, such that it could not properly characterize the idea of the family (§ 169)? Because a family normally outlives its singular members, its property cannot be limited to the time of a singular life; it must be more durable than individual property and include the care for a community with a future of its own. The communal aspect marks it as an ethical, not merely a socioeconomic, institution (§ 170).

Whoever concludes that the family as such, and therefore all its members, should play an important role in civil society as the

⁹ Most interpretations translate *Vermögen* as "resources."

sphere of proprietary transactions, will be disappointed by Hegel. Since the man is the active and outgoing element of the family, he is the one who represents and incorporates the family in the sphere of civil society and the state (§ 171). The society is therefore described as a society of men, while other members of the family are not even mentioned in that context.

A situation in which the wife or the children do not have any rights would be a scandal, however. Roman law is an example of such injustice (§§ 175R and 180R). Instead of separate rights, the members of the family have a share in the common right, which is expressed and defended by the father (§ 171). The immediate character of the familial unity is responsible for the fact that conflicts may arise between the father's interpretation of the collective rights and the rights of his wife or children, which are parts of that collective right. If such conflicts lead to a public dispute, for example in the form of a lawsuit, the family has already fallen apart. Love has then been replaced by a competition among singular personalities (§ 180 & R).



There are other ways in which the family can fall apart. Death is inevitable, but the death of some members does not necessarily destroy the survival of the family (§ 178). Divorce is a possibility, although it is not so easy to see how Hegel's concept of marriage can justify such a possibility. It is not enough to point out that love, as a subjective and contingent feeling, can disappear and even open the door for hostile emotions and acts (§ 176). Since Hegel argued that feelings are not the quintessence of marriage, but only the normal expression of a decision in which the spirit abolishes the duality of the persons engaged, he must also explain how that decision itself, which is the spirit's work, can be revoked. He tries to maintain the objective right of the ethical spirit by stating that "the right of the marriage" cannot be destroyed by mutual consent alone, because that would be too subjectivistic, too contingent, and often premature. A third, ethical instance, e.g., a judge, should defend the "right of the marriage" against the feelings of the married individuals. Only when this judge has evidence that they are completely alienated, can they be separated (§ 176). Apparently, Hegel presupposes that the uniting spirit can

withdraw from the love in which it initially realized itself. In a divorce, the spirit shows its indebtedness to the natural contingency of its world of right and communion.

Education (§§ 173-177)

The main cause of dispersion lies in the fact that children grow up and establish their own families. But before that moment arrives, they must be educated (§§ 173-175). The origin of this education lies in the essence of the love between the parents. A child is the objective existence of the love that is the unifying substance of marriage. The spiritual unity that does not abolish the parents' corporeal separateness exists here as one human being. The individualities that preceded the marriage are mirrored by the individuals who will one day repeat the process of loving, uniting, procreating, etc. Human procreation is the finite and natural way in which the familial spirit realizes itself as species (*Gattung*): "the endless progress of generations that procreate and presuppose one another" is the way in which the spirit realizes itself as the natural species of homo sapiens (§ 173).

As members of the family, parents and children have mutual rights and duties with regard to service, education, and safeguarding the future. Education has two main goals: (1) the character of the children must be formed in accordance with the demands of true ethicality and they must develop a sense for the right disposition of love, trust, and obedience; (2) their freedom must be awakened and developed so that their childish attitude is transformed into the independence of free personalities who know what should be willed. If education is successful, it results in the formation of persons who no longer need their parents, brothers, and sisters. They will leave the natural circle of the family to acquire their own private property and to establish a family of their own (§§ 174-175, 177).

Thus, we observe that the repetition of the same, typical for the natural *Gattungsprozeß*, is retained and transformed on the level of ethical spirit. In the family, education, (which leads to a second birth), in addition to procreation, is an ongoing process in which the end is the repetition of the beginning ad infinitum. The family must be dispersed to begin anew.

CHAPTER NINE

SOCIETY

Many Hegel scholars have sung the praises of Hegel's treatise on civil society.¹ It is indeed a highly original part of his work,

¹ There has been a flood of publications on Hegel's philosophy of civil society. Two of the most thorough books on the subject are Birger P. Priddat, *Hegel als Ökonom* (Berlin: Duncker & Humblot, 1990), which provides an excellent study of the relationship between Hegel's philosophy and the economics of his time and also has an extensive bibliography (cf. the somewhat critical review of this book by Thomas Petersen, "Wie modern ist Hegels Theorie der bürgerlichen Gesellschaft?" in *Archiv für Rechts- und Sozialphilosophie* 80 [1994]: 109-116), and Klaus Rothe, *Selbstsein und bürgerliche Gesellschaft: Hegels Theorie der konkreten Freiheit* (Bonn: Bouvier, 1976). The latter offers much more than an interpretation of Hegel's social and economic philosophy. The author not only shows how Hegel retrieves the social theories of Plato, Aristotle, Hobbes, Leibniz, Rousseau, and Kant, he also explains the "metaphysics of freedom" in which Hegel's theory is rooted. His important conclusions are presented on pp. 191-204. Cf. also G. Ahrweiler, *Hegels Gesellschaftslehre* (Neuwied: Luchterhand, 1976); William Maker (ed.), *Hegel on Economics and Freedom* (Macon: Mercer University Press, 1987), which includes studies by Gallagher, Maker, Ver Eecke, Winfield, et al; and Norbert Waszek, *The Scottish Enlightenment and Hegel's Account of "Civil Society"* (Dordrecht: Kluwer, 1988). Valuable articles are the following: Joachim Ritter, "Person und Eigentum," in *Materialien* 2, pp. 152-175; Manfred Riedel, "Die Rezeption der Nationalökonomie," in Riedel, *Studien zu Hegels Rechtsphilosophie* (Frankfurt/Main: Suhrkamp, 1969), pp. 75-99; Peter G. Stillman, "Person, Property, and Civil Society in the *Philosophy of Right*," in Donald P. Verene (ed.), *Hegel's Social and Political Thought* (Atlantic Highlands: Humanities Press, 1980), pp. 103-118; Nathan Rotenstreich, "Needs and Interdependence: On Hegel's Conception of Economics and Its Aftermath," in *Hegel-Studien* 19 (1984): 179-203; Wilfried Ver Eecke, "Hegel on Economics and Freedom," in *Archiv für Philosophie und Sozialwissenschaft* (1984): 187-215; Christopher J. Arthur, "Hegel on Political Economy," in David Lamb (ed.), *Hegel and Modern Philosophy* (New York: Methuen, 1987), pp. 102-118; Emil Angehrn, "Die Ambivalenz der Moderne," in *Hegel-Jahrbuch* 1988: 170-180; Sander Griffioen, "The System of Needs as a System," in *Hegel-Jahrbuch* 1984-85: 137-146 (Griffioen highly praises P. Vogel, "Hegels Gesellschaftsbegriff und seine geschichtliche Fortbildung durch Lorenz Stein, Marx, Engels, und Lasalle" [Berlin: Pan-Verlag, 1925]); Giuliano Marini, "Aspetti sistematici nella società civile hegeliana," "Struttura e significati della società hegeliana," and "La società civile tra apparenza e parvenza: su alcuni aspetti sistematici della 'Filosofia del diritto' hegeliana," in his *Libertà soggettiva e libertà oggettiva nella filosofia di Hegel* (Napoli: Morano, 1990), pp. 11-42, 131-161, and 229-252 respectively; Steven Smith, "At the Crossroads: Hegel and the Ethics of *Bürgerliche Gesellschaft*," in *Laval théologique et philosophique* 51

through which he simultaneously assimilated and strongly renovated the tradition of social philosophy. "*Bürgerliche Gesellschaft*" (civil society), the German translation of the scholastic *societas civilis*, which refers back to Aristotle's *koinonia politikē*,² is the name for that dimension of the ethical world that is intermediary between the most intimate and emotional union of the family and the fully rational community of the state. Like the family, civil society is itself an element of the state, and thus must be called abstract in relation to the concrete totality of an organized nation, but if compared with abstract right and morality, it is the concrete functioning of a social network based on individual and familial needs, rights, and moral demands. Personality, property, contractual relations, wrongdoing, individual actions, moral claims, inter-subjective assistance, and association together compose a constellation that Hegel sometimes calls a "totality" or even a "state." However, since its structure is relational and contractual rather than communitarian (and in that sense total or concretely universal), civil society is only a "relative" (not unitive or conclusive) "totality" (§ 184) and a "state of the intellect" (*Verstandesstaat*, § 183). In contrast with the (political) state, in which a universal principle (the universal will) keeps its members together as accidents of one substance (§§ 258 & R, 270) according to the "internal necessity" of its self-unfolding, civil society holds together the multiplicity of independent burghers, whose dealings with one

(1995): 345-362 (this article provides a good study of the influence of the Scottish social philosophers on Hegel, but its treatment of labor is debatable, pp. 357-358); and Rolf-Peter Horstmann, "Hegels Theorie der bürgerlichen Gesellschaft (§§ 158-256)" in *Siep, Grundl*, pp. 193-216.

² In *Materialien 2*, pp. 247-275, Manfred Riedel demonstrates that Hegel has changed the meaning of the traditional expression "civil society" (*societas civilis*, which meant the state) by distinguishing it from both the family's *societas domestica* (Aristotle's *oikos*) and the *political* community or state. See also Giuliano Marini, "Tra Kant e Hegel: per una riaffermazione dell' antico concetto di società civile," in *Teoria* 10 (1990): 18-28. The changes in meaning of *societas civilis* are connected to changes in the meaning of the words *Bürger/bourgeois/Burgher* and *Staatsbürger/citoyen/citizen*. See the historical overview by Manfred Riedel in "Bürger, Staatsbürger, Bürgertum," in Otto Brunner, et al, *Geschichtliche Grundbegriffe: Historisches Lexikon zur politisch-sozialen Sprache in Deutschland* (Stuttgart: Klett-Cotta, 1972), pp. 672- 725 (on Hegel: pp. 706-709) and, very succinctly, Jean François Kervégan, "Le jeune Hegel et la quête de l'esprit du tout," in Hans Friedrich Fulda and Rolf-Peter Horstmann (eds.), *Rousseau, die Revolution und der junge Hegel* (Stuttgart: Klett-Cotta, 1991), pp. 279-285. Cf. GW 4, p. 458; Wa 89; Su 19, p. 228.

another do not transcend the level of intersubjective relations, through a universality that remains external to their reciprocity. If we call this a state, it is an "external state" (§ 183). As an essential, but external dimension of the state's essence, civil society is the "external appearance" of the (true) state. Because, as we will see, civil society is based not on the full freedom (and "inner necessity") of reason, but rather on the (external and natural) necessity of needs, it can also be called a *Notstaat* (§ 183), i.e., a *Staat* of neediness (*Not*) and necessity (*Notwendigkeit*, cf. § 263).³

In studying this dimension, we must always remain aware of the intermediate character of the features and institutions that Hegel analyzes. The contractual and moral elements that were determined in the two first chapters can now show their concrete relevance for social life, but we cannot oppose these to the political dimension of the state, which is the encompassing horizon within which that social life is lived. With regard to the unity of the state (which is the whole) and the civil society (which is a subordinate dimension), Hegel leaves much to the reflection of his readers, who must consider the following analyses as constitutive moments of the state.

The text of GrI 182-256 contains a wealth of original insights, but the logic of its composition is not easy to discover. Hegel helps us, however, by providing us with a résumé in the second (1827) and third editions of his *Encyclopedia*.⁴

Civil Society According to the Encyclopedia (BC 518-538)

Surprisingly, the first edition of the *Encyclopedia* (1817) does not contain an analysis of civil society; it even lacks the term *bürgerliche Gesellschaft*. Although Hegel had studied Adam Smith's *Inquiry into*

³ In § 157 Hegel characterizes the civil society as an "external state" and in § 184 as only a "relative totality." Civil society is "the battlefield of the private interest of all against all" (§ 289): in it, the sphere of particularity is only relatively identical with the universality; it still contains "the remnants of the state of nature" (§ 200R). Cf. §§ 209 and 229 and see Giuliano Marini, "Ancora sulla filosofia politica hegeliana: società civile e stato tra finità e infinità," in *Il pensiero politico* 23 (1990): 78-91.

⁴ That Hegel provides a summary of the *Grundlinien* in the second and third versions of the *Encyclopedia* (§§ 487-552) is stated explicitly in Enc BC 487: "Because I have unfolded this part of philosophy in my *Grundlinien des Rechts* [...], I can here be more succinct than about other parts."

the Nature and Cause of the Wealth of Nations (London, 1776) and Steuart's *An Inquiry into the Principles of Political Oeconomy* (1767) and had used several economic concepts in his Jena writings,⁵ he did not integrate them into a systematic theory of economic life in the *Encyclopedia* of 1817.⁶ Immediately afterwards, however, in his first course on the philosophy of right (1817-18), he unfolded his first version of such a theory. The course was repeated in the winter of 1818-19, and the first publication of this theory is *Grundlinien* §§ 181- 256. The *Encyclopedia* of 1827, whose text on civil society underwent only stylistic modifications in the third edition of 1830, summarizes but does not alter the theory of the *Grundlinien*. By analyzing the argument of this summary (§§ 518-538 in the versions of 1827 and 1830), we learn what Hegel himself saw as its most essential points and structure.

When persons, with their own rights and properties, engage in contractual relationships with other persons, they find themselves in a situation that is already socialized. They have already overcome a "state of nature" in which everyone can occupy whatever has not yet been appropriated (Enc BC 488-489). Even if there might still be some unoccupied piece of nature, most of the possessions are held as socially recognized property. Acquisition

⁵ Rosenkranz (*G.W.F. Hegel's Leben* [Berlin, 1844], pp. 85-86), writes that Hegel read Christian Garve's German translation of Adam Smith's book between 1794 and 1796, and that around the same time he wrote a commentary on Steuart's *Inquiry*. In *Grundlinien* 189R, Hegel cites Smith, Jean-Baptiste Say (*Traité d'économie politique*, Paris, 1803), and David Ricardo (*On the Principles of Political Economy and Taxation*, London, 1817) as the leading minds in the new science of political economy. Paul Chamley has studied the young Hegel's possible sources for economic theory in *Économie politique chez Steuart et Hegel* (Paris: Dalloz, 1963), "Les origines de la pensée économique de Hegel," in *Hegel-Studien* 3 (1965): 225-261, and "La doctrine économique de Hegel et la conception hegelienne du travail," in *Hegel-Tage Urbino 1965* (Bonn: Bouvier, 1969), pp. 147-159. See also Laurence Dickey, *Hegel, Religion, Economics and the Politics of Spirit, 1770-1807* (Cambridge: Cambridge University Press, 1987), on the young Hegel and Jena. With regard to the absence of civil society from the *Encyclopedia* of 1817 and its difference from the later editions, see *Hegels prakt. Phil.*, pp. 271-274. If the interpretations that present the young Hegel as particularly interested in economy are right, it is almost incomprehensible how Hegel could ignore the economic aspects of the human community in 1817.

⁶ In the 1817 version, the family and the civil society are distinguished as the singularization and particularization of the universal work of the state (Enc A 433). With respect to the question of the extent to which Enc A 432-436 contain *in nuce* the later unfolding of *Sittlichkeit* into three "totalities," see *Hegels prakt. Phil.*, pp. 250-277.

must therefore be mediated by exchange and production. Social mediation is necessary for the satisfaction of the individuals' needs, which involves work (*Arbeit*) to produce what is needed. The totality of work performed by all persons involved in the economy produces "the general wealth or property" or "the general resources" (*das allgemeine Vermögen*) of their community, and singular individuals through their contribution earn a share in that product (Enc C 524).

The social reality of acquisition, work, and exchange is motivated by the needs (*Bedürfnisse*) of the participating individuals. These needs constitute the dimension of particularity in which the abstract rights of the individual persons become concrete. The multiplicity of needs and the corresponding forms of satisfaction that develop throughout civilization demand various sorts of work and specialization; various production processes cooperate as elements of the economic totality (C 525). The advanced division of work results in automated forms of production, which intensify the dependence of specialized workers on the society as a whole (C 526). Different kinds of work lead to different social formations; together with differences in property and skills, they divide the society into three main classes or "estates" (*Stände*): (1) the farmers, (2) the middle class, and (3) the employees of the state.⁷

These are the main features of the "system of needs" as described in C 524-528. It is a socio-economic network dominated by multiplicity, divisions, oppositions, and relations (of persons, needs, satisfactions, property, exchanges, types of work, and talents). This network is ruled by the *Verstand*. As the faculty of distinctions and relations, it here finds a great opportunity for its

⁷ In the English Hegel literature, it has become customary to translate *Stände* as "estates" because neither the twentieth-century sociologist and political theorist, nor Marx would recognize Hegel's "*Stand*" as *class*. However, insofar as the *Stände* emerge from civil society and as such do not yet include a political institutionalization, the expression "class" seems to me to come closer to Hegel's meaning than what we consider today an "estate." I will therefore, along with Michael J. Petry, Alan Ryan, Raymond Plant, and A.S. Walton, use "classes" for *Stände*, but switch to "estates" when the political connotations are emphasized. For further justification, see note 16. The institution that Hegel indicates with the word *Stand* or *Klasse* cannot be identified with any class in the eighteenth- or twentieth-century sense. Therefore, if one wants to understand what he means, one must pay close attention to Hegel's descriptions.

cultivation (*Bildung*). But how does this network fit into Hegel's overall theory of objective spirit?

Further on, we will see how civil society relates to the family and the state, both of which are ethical totalities in the well-rounded or "infinite" sense of a true "totality" or "whole." Although civil society can be called "a totality that is developed in itself" (C 523), thanks to its coherence, it is a non-unified network of interrelations between private individuals who are linked together by their needs. The connections among these individuals is based upon the generality of their particular needs. Lacking fundamental unity, they depend on one another through their egoism, which isolates them as much as it relates them to the *Willkür* and particular needs of one another. If "system" evokes a totality, Hegel warns the reader about its relativity by characterizing it as an "atomistic system" (*das System der Atomistik*). The cohesion of the civil society consists in the mutual dependence of "independent extremes," resulting from the mutual dependence of their particular interests (C 523). The logical structure of this "system" can be formulated as a quasi-concept: it is a multitude of concrete *singular* persons striving for the realization of *particular* interests (the satisfaction of their specific needs). To this end, they choose the means for their satisfaction; through their work, they produce property that can be exchanged (e.g., in converting it into currency, which is the universal value on this level), and they enter into contractual relations with other individuals. The logic of this society is interpersonal, but not communitarian. The persons "are not conscious of and do not aim at absolute unity; instead, they aim at their own particularity and their being-for-themselves" (C 523). As a logic of particularity and relations between monads, this structure cannot realize a genuine universality. "Unity and universality only *shine* into the particularity of needs" (C 525, my emphasis), because their appearance is restricted to the cohesion of reciprocal dependency, without forming a real community.

The general mediation of needs and work receives a more specific form through the division of work. Hegel even thinks that the logic of the concept rules the division into three classes (C 527). The concrete existence of working individuals particularizes them in (1) an immediate, *substantial*, or *natural* class (*Stand*), which has a simple and undivided character; (2) a *reflective middle*

class, in which the *particularized* structure of the civil society is expressed most clearly; and (3) a *universal Stand*, which is dedicated to the interests of the state.

Since neither the economic relations between classes nor the systematic connections between needs, modes of production, and exchange express an encompassing and originary unity, but rather a process of endless multiplication and dispersion, it is obvious that the civil society cannot stand by itself; it must be understood as a subordinate dimension of a unifying whole. In Hegel's view, this whole is the political community of the state. Civil society (as the economical and legal system) is only the appearance of the state. But before we consider how it is integrated into the latter, we must see how the principles of personality, property, and contract are operative in the concrete life of the society.

In four sections (Enc C 529-532), Hegel presents the administration of justice (*Rechtspflege*) as the social institution in which the principles of abstract right (personality, property, and contractual demands) are concretized. Their concretization has two sides: As a network of mutually connected needs, work, and exchanges, they form a "system" that, analogous to nature, is ruled by the necessity of an "invisible hand." Science can study the objective laws that govern the economy as an objective piece of "second nature." The mechanisms of the market, as revealed in political economy, go together with many forms of contingency: the economy is driven by particular and contingent needs and arbitrary choices. Left to itself, it cannot guarantee that the participating individuals respect one another as persons: contracts might be broken or infringed upon, property may be stolen, etc. The objective necessity of the economy *should* be in agreement with the demands contained in the abstract or formal right of persons (C 529); what has been discovered in Chapter One of the *Grundlinien* must become concrete *in* and *as* the essential and normative structure of the economic network that relates all persons.

However, a complete realization of freedom and right is not possible on the level of need-based intersubjectivity. As long as right is confined to the horizons of civil society, it remains too formal: from the multitude of needs no specific content can be derived as necessary for the lives of the singular individuals. Hegel's treatise on abstract right yielded only the objective demand that

each singular person should be respected, be allowed to have property, engage in contractual relationships, and fulfill the promises that are contained in them (C 529, 532). The concretization of this formal right, which is the work of the intellect (*Verstand*), urges individuals to concretize their rightful demands in positive laws (C 529-530). These laws determine how the general principles of personal right should be specified and sanctioned as valid for all participants of an existing society. Since they concern all, laws must be publicly promulgated so that no one has an excuse for not knowing them. The positive laws of civil society thus create the objective structure in which the freedom of individual persons is concretized. The abstract determinations of right deduced in Hegel's first chapter now demonstrate their concrete significance for the human society *insofar as* this is an association based on natural needs and arbitrary choices.

The relation between (1) the society as a system of interpersonal relations ruled by a quasi-natural necessity and (2) right as a system of positive laws specifies the fundamental relation between (1') nature and (2') spirit. The objectification of spirit in civil society is a sort of naturalization of free will, insofar as right rules the natural dynamics of human animality. Nature, in the form of human needs, must submit to the laws of freedom; the arbitrariness of *Willkür* is overruled by the principles of right. The entire administration of justice (C 531) aims at submitting the impulses of a not-yet-reasonable nature to reason. The necessity of economic mechanisms must be transformed into an aspect of the embodied rationality of true freedom. If positive laws are good and enforced by incorruptible judges, they accomplish this transformation (C 531-532).

The incomplete and still formal character of this transformation lies in its exteriority and contingency. Though the positive laws of the society protect the right to property and contractual obligations, the principles of abstract right are not sufficient to deduce the specific contents of this right. The laws are not interested in personal happiness but only in the protection of the formal rights that follow from the abstract freedom that lies in personality. The unity between right and need — or between free will and natural-ity — here retains the character of an application (*Anwendung*): through their concretization in laws, the principles of right are

applied to natural needs of individuals, who are thereby required to obey those principles. If individuals subordinate their needs to the law, the behavior that follows is "decent" or "upright" (*rechtschaffen*), but it is not yet possible on this level to go beyond a rationalized egoism and utilitarianism. The atomistic system of mutual self-interest does not permit a deduction of *communitarian* virtues like solidarity or compassion.

A second sign of the civil society's insufficiency lies in the fact that it cannot secure the creation of an objective order in which freedom takes the form of a social *necessity*. Contingency accompanies all elements of the administration of justice. The creation of a legal code determines the behavior that is required in complicated situations. Though necessary, such determinations cannot be fully justified by reason or intellect, however. Further application of the principles leads to greater concretization, but it can never yield the final determination. In the end, there remains a certain indeterminacy, for example, in the severity of the penalty for a specific crime or the mode of execution, and this indeterminacy can only be overcome by contingent and, in that sense, arbitrary decisions (C 529). The impossibility of reaching determinations that are fully rational and logically necessary is due to the essential indeterminacy of the matter (the natural needs) that must be ordered. Contingency and arbitrariness (*Willkür*) are, thus, ingredients of the positive laws themselves. Not only can their content be rational *or irrational*, but in legislation it is never true that "the law in *all* respects could and should be determined by reason or juridical intellect, through purely rational (*vernünftige*) and intellectual (*verständige*) grounds" (C 529R).

A third form of contingency inheres in the administration of justice, insofar as right's objective reality depends in the end on the judgment of a judge and the effective application of sanctions. However, a judge can fail, for example, because he is corrupt or lacks insight. Again, the necessary actualization of right depends on particular acts or habits of contingent subjects.

As long as the actualization of all individuals' rights entirely depends upon general but atomistic self-interest, the market mechanisms will prevail, though their ruthlessness will be mitigated to a certain extent by the legal system. Only a genuine union of (1) the association of needy, self-interested persons and (2) the

adequate realization of a specific code of just laws can accomplish justice, but this presupposes that the economic mechanisms are appropriate expressions of a will that is dedicated to the rights and the community of all persons and as such can be called "universal" (C 532).

In C 533, Hegel gives a list of the features that demonstrate the deficiency of civil society in achieving its own purpose. Neither the quasi-natural mechanism of the market nor the administration of justice can prevent crimes. The well-being of all citizens is not an issue because the principles explained above are too abstract and general; they guarantee only a formal possibility of satisfaction and juridical protection for everyone, but they do not interfere in particular cases and individual lives. The needs themselves are not stable forces in the mechanics of economy, for the following reasons: they change under the influence of fashions and subjective preferences, local and international circumstances cannot be fully controlled, errors and scandals can disrupt the economic order, and general employment cannot be guaranteed. The laws of the economic process simultaneously cause a necessary course of events and a disastrous situation for some individuals. The purpose of the society, i.e., the general satisfaction of individual needs, is at the same time accomplished and destroyed. If we can show that the abstract (or formal) right, explained in Hegel's first chapter, is only one aspect of freedom, and that *all* human beings have a positive right to concrete subsistence and well-being, it will be obvious that civil society can only play a partial role in the realization of freedom and well-being. By itself it cannot answer the question of how human freedom must be actualized in praxis. According to Hegel, all individuals have a formal right to their survival and well-being (*Wohl*, C 505), but the demands that follow from this right do not contain a legal guarantee for their concrete fulfillment. As we have seen in Chapter Six, he sees it as "a *morally* justified right," not as a moment of personality as such. The demands of morality are no less serious than those of the abstract right of persons, but their source lies in another aspect of free will.

The atomistic system of general self-interest cannot realize what it desires; the invisible hand is paralyzed by many factors outside its control. Therefore, another, superior and more powerful principle must orient and rule the economic mechanism. The principle

of unity and community, actualized in the state, must realize general well-being “in *and against*” (my emphasis) the economic mechanism by intervening where civil society goes awry.

In the *Encyclopedia*, it remains unclear how the state must bring the economy under control, while the *Grundlinien* gives some hints without really solving the question. However, between the cruelties of an atomistic economy and state-governed interventions, Hegel pleads for an intermediate institution that belongs to the civil society insofar as it is motivated by the private interests of its adherents. In place of the old guilds that were abolished, *corporations* (*Korporationen*) should bring those people together who have common interests on the basis of similar work. By uniting into associations, these workers protect specific interests that are at the same time private and common to a particular group. Since the principle of civil society is self-interest, freedom and right can be realized in it only on the basis of shared egoism. As a combination of private and shared interests, however, the corporations can mediate between the singular individuals and the universal will that binds them together in the state (C 534).

The Logic of Civil Society According to Enc BC 523-535

Three dimensions are represented in Hegel's treatise on civil society in the *Encyclopedia*:

(1) a scientific analysis of the mechanism of modern economy along the lines of Steuart, Say, Smith, and Ricardo;⁸

(2) the normative demands of the abstract rights of persons (or property owners) and moral subjects (with their specific needs), as derived from the general concept of free will and right;

(3) the postulated necessity of the political institutionalization of free will as the universal will that wills the equality and community of its citizens.

The *first* dimension is the relative totality into which human needs develop. Because needs are the immediate, natural, and

⁸ Priddat (see note 1) does not find any indication of Hegel's dependence on Ricardo, although Hegel mentions him in GrI 189 (Priddat, p. 20). In general, Priddat disagrees with the thesis of Karl Marx and others that Hegel fully mastered the economic literature of his time (p. 9), although he does concede that Hegel was more or less familiar with current German economics (p. 11).

corporeal concretization of the individual will, their satisfaction is demanded by the same fundamental right, inherent in free will, that is expressed in the *second*, normative dimension imposed on the economic laws of the first dimension. Because the combination of the economic mechanism with the administration of justice is incapable of accomplishing the general satisfaction and well-being demanded by right and morality, the sphere of civil society refers to a *third*, no longer atomistic dimension. Instead of private interest, property, and work, another principle — a new concretization of freedom and “right” — must be discovered and developed to overcome the contradictions of the economic order.

Obviously, civil society has all the features of an intermediate moment in the dialectic of freedom’s actualization. It clearly illustrates the natural character of objective spirit. Dominated by the particular drives and contingent choices of atomistic individuals, it is ruled by a deterministic rationality similar to the lowest, “*mechanical*” level of nature (Enc C 253-271). The kind of rational universality discovered by the scientific intellect in the seemingly chaotic play of arbitrary choices is a formal one; although it shines through that play, it does not form a satisfactory synthesis. Instead of forming an *organic* totality — which would establish civil society as a parallel to the highest, *organic* level of nature (C 337-376) — civil society shows an unresolved split between its essence (right) and its appearance (the mechanism of needs, commodity, exchange, and labor).

Although civil society forms a social system, thanks to the intersubjective dependence played out in it, it hardly actualizes the basic structure of *Sittlichkeit*, whose characteristic features are unity and “substantiality” (see Chapter Seven). Civil society is the dimension in which “the substance [...] at first *loses* its ethical determination” (C 523, my emphasis). The unfolding of its elements displays an attempt to overcome this loss, but its principles are insufficient for actualizing itself as a closed circle.

Hegel’s treatment of civil society shows its logic as the unresolved play of an atomistic multitude. The mutual relations among particularities manifest an *abstract* universality that, as ground and essence, shines through a non-unified appearance (GrI 181). Universal right and universal well-being cannot coincide on this level; freedom in the form of autonomy and freedom in the form of

personal happiness are not reconciled. Utilitarianism and respect for persons are here constantly struggling for supremacy. Political intervention is, therefore, necessary to make a society truly ethical.

Only one passage within sections C 523-534 displays the correct structure of the complete (or "infinite") concept: the passage justifying the distinction of three classes (C 528). Hegel insists in C 527 that the differentiation of work as a "division of the general property, which is also a general activity" (or business, *Geschäft*), results in "particular masses according to the moments of the concept": (1) "the *substantial, natural* [i.e., immediate, abstractly universal] class" of the landowners, (2) "the *reflected* class" of those who through their work accomplish a mediating function, and (3) the *concretely universal* or *singular* "thinking class," which works for the social totality as such.

One might doubt whether the logic of the concept is applicable to the phenomena Hegel tries to derive here. He seems to be convinced that it is, because he repeats the argument in several texts and courses from 1820 to 1830. In Grl 202 he affirms: "The classes are determined according to *the concept* as [a] *substantial* or immediate, [b] *reflective* or *formal*, and then as [c] the *universal* class." Likewise, in § 206, he reiterates that "the *Stand* divides itself according to the concept." However, the conceptual character of the class structure is debilitated by the fact that the dimension to which it belongs is unable to constitute a true community; it does not surpass the level of free association and the three classes cannot form a true union.

Civil Society in Grl 182-256

Principles (§§ 182-186)

The presentation of the civil society in the *Grundlinien* is much more detailed than that in the second and third versions of the *Encyclopedia*, but, as we will see, the logic of the argumentation is the same.

In seven introductory sections (Grl 182-188), Hegel explains how the social dimension of personality, property, and contract is structured (§§ 182-187) and he presents a division that is identical to the one given in the *Encyclopedia* (§ 188).

Civil society has a definite but imperfect independence vis-à-vis the other totalities of ethical life: the family and the state. It is a *relative* totality; encompassing the entirety of economic relations and exchanges between singular persons, it forms a whole, which is why it has often, although incorrectly, been identified with the state. Its imperfect and non-radical or "external" character is due to a certain dualism: the conceptual moments of universality, particularity, and singularity remain relatively external to one another without composing a perfect union. This dualism is clarified through a description of the two "principles" that constitute the society, both of which are further developments of elements found in the chapters on free will, abstract right, and morality.

Civil society is the social dimension in which persons are no longer stripped of their particular features, talents, and desires, as they were in the chapter on abstract right. Now, following the chapter on morality and the introduction to *Sittlichkeit*, they are considered in their concrete existence as acting subjects having their own interests, whose interaction creates the fabric of social life (Grl 181-182). Aware of their equal right to pursue their own well-being, they are productive agents in economic processes that have their own rationality. As "concrete persons, which are *particular* ends for themselves" (§ 182), the participants in this socio-economic dimension of the state are no longer abstract personalities (respectable and equal in their abstraction from all differences in property, character, work, drives, habits, etc.); they are *Mensch* (§ 190R), i.e., fully human insofar as we now consider them as having their individual needs and differences.

For every level of ethical life, Hegel proposes a different name for its participants: the "person" of abstract right becomes a moral "subject" in morality and a member of a family in the family; the civil society is the first level where the individual is considered as a full-blown *Mensch*, though it still makes an abstraction from his citizenship, which raises him above the *bourgeois* existence of a private person in interaction with other private persons.⁹

⁹ In Grl 209 Hegel warns the reader that the transition from abstract persons to concrete *Menschen* does not abolish the fundamental equality and identity of all individuals. No distinction in property, education, culture, or mores can justify discrimination: "A human being (*der Mensch*) counts as a *universal* person because he/she is human, not because he/she is a Jew, a Catholic, a Protestant,

On the one hand, concrete persons are singular wills that must realize themselves by pursuing particular interests based on various needs by choosing arbitrarily what they want to acquire and consume. On the other hand, these same persons cannot acquire the goods they desire unless they participate in the already existing network of contractual relations and exchanges that composes the economy.¹⁰ Furthermore, this network is ruled by universal laws from which they cannot escape, whether they are aware of them or not. The two principles are independent, which causes a basic scission (*Entzweiung*, §§ 186 and 184).

The first principle ensues from the demand for realization implicit in the concept of personality and moral subjectivity: a person must engage in the network of property owners and deal with other persons through contractual relations in order to achieve his own well-being. In his chapter on free will, Hegel stated that natural drives, inclinations, and passions are expressions of the will on its immediate, natural level. He did not show, however, how the general concept of those drives (*Triebe*) and inclinations (*Neigungen*) leads to the narrower concept of needs (*Bedürfnisse*), which motivate the social commerce of civil society. A justification of this transition can perhaps be given by focusing on the question of which passions, drives, or inclinations are relevant in a network that is entirely motivated by appropriation and consumption. Would not the primacy of appropriation and assimilation force all passions to tend toward consumption? What else are natural tendencies toward consumption than needs?

In pursuing one's needs, one is aiming at one's own satisfaction, or rather, at many kinds of satisfaction for many different needs. Needs do not coincide with the core of a person's will; as a natural expression of freedom they represent the particularization of singular persons. If individuals were identical with their needs,

a German, or an Italian, etc." Cf. also §§ 48, 49R, 52R, 57 & R, and 270R.

¹⁰ In § 217 & R, Hegel points out that the original kinds of acquisition, such as first occupation (§§ 53 ff.), are in general no longer available. As a consequence, acquisition is normally only possible through a contract (donation, inheritance, payment for work performed, and so on). One who has not inherited anything and cannot work is therefore condemned to a beggar's existence. As we have seen, such a person has no other (moral) right than the abolition of his or her *immediate* need. Should civil society or the state resolve the problem of this neediness? See below.

they would disintegrate into a multitude of natural forces. That they can choose to follow some needs and ignore others, indicates that, even on this level, they are able to maintain a certain unity, but the faculty of choice (*Willkür*) itself has here no other criterion than need and satisfaction. It is therefore ruled by the contingent character of natural phenomena. The "mixture" (*Vermischung*) of natural necessity and choice encloses the members of the civil society in a circle of natural and arbitrary contingency.

At the same time, however, their society is dominated by universality in two ways. First, economic interaction, similar to natural processes, is ruled by economic laws that are not subject to personal choices. Science reveals the universality of a quasi-natural necessity — part of the necessity of spirit as second *nature* — which rules the free play of economic life. An "invisible hand" is concealed in the individualism of general self-interest. Second, the exchanges between persons are necessarily ruled by the objective and universal demands contained in the right of their personality and their moral claims to well-being. The universality of being a concrete person imposes itself on the system of particular needs and arbitrary decisions that rules the market (§ 183).

Both forms of *universality* govern the system formed by *singular* persons who are motivated by *particular* needs, but domination and submission do not form a conceptual unity. They are held together by relations of imposition and subordination, not as organic expressions of one unified principle. The mutual externality of the two principles — the principle of particular well-being and the principle of universal right — is one of the reasons why Hegel calls the civil society the "external" state (§ 183). The idea of "right" realizes itself here in a dual mode: the empirical reality is totally dominated by particular needs and choices, whereas the universal aspect of right remains a merely internal necessity, similar to a hidden power that realizes itself by means of *and* despite the individuals' aims (§ 184). The universality of freedom and the particularity of singular wills form different levels, and conflicts between these levels cannot be avoided. If social life is uniquely based on utilitarian motivations, it is an inadequate realization of freedom because the actors are driven by particularity only, while the universality remains abstract and distinct from the actors' self-conscious action. The duality of the principles that constitute the

dimension of civil society explains why it contains so many tensions and contradictions.

Civil society does not have the rational structure of the concept, but rather the analytic structure typical of the *Verstand* (§ 183). There is nothing wrong with this structure, but it cannot be the foundation of true freedom and community. This already follows from its dependence upon a natural — and, as such, superficial — aspect of persons: their neediness. Insofar as they are only economic beings, humans cannot unite to form free communities; they remain confined to the level of quasi-natural associations. If the civil society is considered in abstraction from its connection with the state, it must be characterized as a form of “ethical life that is fallen apart into its extremes” (§ 184) or even as a “loss of ethical life” (§ 181, cf. Enc C 253). Contained within the political community, however, civil society, egoism, utilitarian self-interest, and the free play of the market are essential elements of the state. They create the space in which individuals can lead private lives, freely choose how to satisfy their needs by dealing with others, and develop the necessary skills for the acquisition and transformation of goods and means. Such a space is necessary to allow the moments of singularity and particularity enough leeway for their own unfolding. It would be unjust to suppress all spontaneous expressions of private freedom, especially with regard to the necessity of natural needs.

Oppression was the way in which ancient states resolved the tensions between the “substantial” principle of the political community and the “subjective” principle of individualistic dispersion. When the latter principle became too strong, political decay resulted. In response to this danger, Plato’s *Politeia* presents us with the picture of an oppressive state, which, by forbidding private preferences with regard to property, marriage, and profession, attempts to save its communitarian character. Only the modern state, however, has “the truly infinite force (*Kraft*) to maintain its unity, while at the same time granting free play to its citizens’ social interaction” (§ 185 R).

Hegel tries to capture the ambivalence of civil society in categories of his logic of essence. Civil society is the *subjective* moment of the *substance*’s unfolding in right (§ 185, cf. § 124); it is the *appearance* of the ethical *essence* (§ 181). Insofar as the socio-economic

dimension (with its characteristic predominance of particularity) is considered independently from the state, the unity of ethical life is lost and the appearance (*Erscheinung*) is only a semblance (*Scheinen*) of the community.¹¹ The abstract presence of universality does not prevent this dualism. But if civil society is organized as an integral part of the political community and recognized as such, it is "the world in which the ethical [the universal as encompassing unity] appears" (namely, in the form of a network of mutual relations among singular persons, § 181).

In his general description, Hegel insists on the contrast between both perspectives by stating that civil society, left to itself, is self-destructive (§ 185); but he also writes — in anticipation of further argumentation — that the dynamics into which the principle of particularity develops prepares a transition to the true universality of the state (§ 186).

If all individual decisions, indifferent to politics, are dominated by the desire to satisfy particular needs, a general hedonism will rule the social order (§ 185). But unlimited hedonism destroys the humanity of the very participants because it represses reason and freedom. The calculations of a hedonistic *Verstand* lead to extravagance (*Ausschweifung*) if it is not governed by reason; the result is ethical and physical corruption.

Economic mechanisms do not guarantee the satisfaction of each and every individual. Much depends upon contingent circumstances, such as inheritance, education, and talents. The bourgeois society is an ambiguous mixture of too much and too little satisfaction; by itself it cannot find a balance that would guarantee a living for all its members. Poverty, too, produces physical and ethical corruption. The purpose of civil society, i.e., the well-being of all citizens, cannot be realized unless another principle — the principle of freedom in its communal power — corrects and balances its contradictory tendencies. From the perspective of the singular *bourgeois* (§ 190), the transition from the socioeconomic system with its *laissez faire* orientation, ruled by particularity, to the political realm, which is the actualization of the universal will, looks like the intervention of an external necessity; but from the

¹¹ Cf. Giuliano Marini, "La società civile tra apparenza e parvenza" (See note 1).

standpoint of truth, this transition expresses the process of incarnation through which the spirit transforms the well-being of a society into the concrete freedom of a community (§ 186). The invisible hand submits the individual players to the laws of the market, which force them to associate with one another on the basis of shared interests and to make socioeconomic adjustments according to the just demands of the citizens (§ 186). All the institutions of civil society are the result of association, but these should be sublated by a higher, universal and unitarian, will that operates on a political level.

The particularity of individual burghers is directed toward the intellectual, abstract, and formal universality of the laws that govern the economic process. It is not essential to the economic process that the participants be aware of those laws, but they cannot undo the objective impossibilities and restrictions of that process. One must learn how to play the economic game by discovering its regularities and its profitable ways of work, education, and exchange. The market urges people to acquire the knowledge necessary for success. Herein lies the origin of *Bildung*, which encompasses education, formation, cultivation, civilization, calculation, and all other skills of the *Verstand*.

Bildung (§ 187)

Against Rousseau and others who dream about the innocence of a precivilized state of nature, and against those who underestimate "the infinite worth" of *Bildung*, as if it were only a means for the satisfaction of needs, Hegel stresses in the Remark to § 187 that formation and culture are integral parts of human self-realization. To think that *Bildung* corrupts the original innocence of a natural, uncivilized way of life is to make at least two mistakes: (1) the natural innocence of such a life is dominated by utilitarian and hedonistic tendencies, which prevent the discovery of higher, more spiritual possibilities of human existence; and (2) by warning people against the cultivation of more civilized possibilities, one abandons them to the pattern of their animality. Formation (*Bildung*) is not only a means to property and consumption; it liberates us from imprisonment in materialistic modes of existence. As our needs develop within civil society, we develop possibilities

of the intellect (*Verstand*) through the transformation of raw materials, calculation of quantities, division of labor, etc. The hard world of economic necessity makes us suffer, but it contributes to the humanization of the world and ourselves.

Hegel's eulogy of *Bildung* (which continues in §§ 197, 209, 217R, 268Z) is the continuation of what he said in his first chapter regarding the necessity of taking possession of one's own self. Persons must appropriate their bodies, skills, labor, convictions, and so on, to actualize their freedom (See above, p. 258). He now insists that to own yourself entails working on yourself through education, learning, and practice.

This [self-]liberation is [...] *hard labor* against behavioral subjectivism, against spontaneous desires, against the subjective vanity of sensations and arbitrary likings [...]. Through this civilizing labor (*Arbeit der Bildung*), the subjective will acquires its own *objectivity*, and this alone makes the will worthy and capable of being the *actuality* of the idea (§ 187R).

In § 187, Hegel interprets the transition from an uncivilized state of affairs to the state of a rational society from a still more grandiose and fundamental perspective, the perspective of spirit itself. Taking civil society as a paradigm for the institutions of right, he first reformulates the widest horizon of his philosophy. The end of all things is the spirit's own full actualization and manifestation: the spirit, as identical with the universe, knows and wills itself. To this end the spirit externalizes or "loses" itself in nature, which it then spiritualizes and transforms into a perfect expression of its self. This widest circle of Hegel's universe is mirrored in the subordinate level of "right" or "objective spirit." The subjective, intelligent, and free willing spirit externalizes and disperses itself in a *second nature*, which it "forms" or "in-forms" by unfolding it as its own objective existence. The various dimensions of "right" show how the spirit can become objective through the civilization of nature. In its broadest meaning, *Bildung* indicates the spiritualization of the world: by conquering and integrating the first and second nature, the spirit makes them its own universal body.

In civil society, the spirit is faced with a natural "element that in itself is alien to the spirit's destination, which is freedom" (§ 187R). This element, the natural needs and the quasi-natural necessity of the economy, is part of the nature in which the spirit

incarnates itself. Its naturalization makes the spirit finite and limited, but it overcomes this finitude by transforming it into a realm of rational and infinite freedom. Natural spontaneity must be abandoned; the hardships of competition and civilization are unavoidable if nature is to become the home of spirit and the revelation of its glory. Without *Bildung*, neither reason nor freedom can be actualized. The state of affairs that emerges through the mixture of natural needs and abstract right, is called a "state of necessity and of the *Verstand*" (*Not- und Verstandesstaat*, § 183). "Formation," the development of the spirit's rational and reasonable aspects, is what transforms the abstract and natural presence of the spirit as "second nature" into its reason-able and fully free actuality in the political state.

Division (§ 188)

The treatise on civil society is divided into three parts, which *prima vista* do not show much coherence: (A) The system of needs (§§ 189-208), (B) The Administration of Justice (§§ 209-229), (C) The *Polizei* and Corporation (§§ 230-256). However, in § 188, where Hegel justifies this division, he presents it as the expression of the three constitutive moments of a concept: (A) singularity (civil society is the space where singular subjects work and satisfy themselves and one another as singulars), (B) universality (the universality of freedom and property right is guaranteed through laws and tribunals), and (C) particularity (the particular interests are taken care of). However, as the unfolding of this division will show, the concept of civil society is not a true concept, but rather the shadow of a concept; the moments of singularity, particularity, and universality, which determine the distinctions between the three parts, remain external to one another; they do not form a synthetic unity.

The *system of needs* (§§ 189-208) is the network of *particular* needs relating *singular* persons to one another. Reciprocity binds them together in a quasi-totality; *universality* has here the form of *allness*, but it lacks the organic unity of a true universal that, as one substance, unites the subjects in which it has diversified itself. Instead, the system of needs and satisfactions is the sum total of mutually related singulars.

The *administration of justice* (§§ 209-229) introduces the moment of universality in the form of positive laws: the general abstractions of right as such are real in generally applicable and sanctioned universal rules. However, application and sanction are modes of external relation — they cannot transform the duality of law and cases into the self-differentiation of freedom as right.

A clear symptom of the civil society's deficiency is the role played by contingency: the system is unable to deduce the manifold factors and events that impede or disfigure its efficient operation. The institutions (especially, "*police*" and "*corporations*") through which the civil society tries to remedy this inability realize common interests and bring certain groups of individuals together thereby creating certain forms of commonality (*Gemeinsames*), but these associations of *singular* individuals who share *particular* interests fall short of a well-integrated union (§§ 230-256).

The overall logic of the civil society as established in the *Grundlinien* was not modified in the *Encyclopedia* (see above). The guiding thread is the (failing) logic of the concept, but the logic of essence and appearance is used to explain the deficiency or "relativity" of this dimension (Grl 181 and 189).

The Socialization of Needs and Work (§§ 189-198)

The general characteristic of the system of needs, given in § 189, opposes the singular subjects and the quasi-natural laws of the economy, while indicating the mediating role of the particular needs, which cannot be satisfied without work performed by the needy subjects. The entire chain of need, work, money, exchange, and satisfaction is generated by the necessity of private property, which was deduced in the chapter on the immediate reality of right.

The right to own elements of nature submits the singular persons, through their particular needs, to the determinations of an objective order that cannot be altered by individual choices. Subjective satisfaction coincides with the objective universality discovered in "political economy" (*Staatsoekonomie*, § 189R). The character of this universality and the science in which it is discovered, is *verständlich*. The behavior of singular subjects caught in it is also *verständlich*, even if they are not aware of the scientifically

proven laws that rule their exchanges. Oppositions can emerge between their subjective perspective and the objective system. When individuals protest against the injustices caused by the necessity of the market, for example, their protest may be justified insofar as it demands that *all* individuals should own at least the necessary minimum of goods in order to satisfy their fundamental needs. However, according to Hegel, this claim is not immediately entailed in the abstract right of universal personality; instead it is a *moral* claim.¹²

Once we understand what is going on in the economic process, we see that the opposition between objective determinism and subjective claims is necessary. Because of the system's objective rationality, we are then able to reconcile ourselves with its failure to create universal happiness, instead of experiencing the opposition as a dark, irrational fate. However, we cannot give up the demand that the contradiction between the objective process and the subjective right be resolved on a higher plane: the plane of reason.

The market itself reveals its rationality only in the form of "intellectual" (*verständige*) structures. Reason *only shines* here — without bringing the rational essence of the community to appearance¹³ — in a mixture of determinism and contingency, including all sorts of empirical circumstances and factors, such as bodies, talents, birth, inheritance, education, skills, opportunity, etc. — all of which create inequality among persons.

¹² See above Chapter Six, pp. 343-354.

¹³ Grl 189: "*dies Scheinen der Vernunft*"; cf. § 181: "*da sie [scil. die Sittlichkeit] als das Wesen notwendig scheinend ist.*" In the latter passage, Hegel refers to Enc A 64 ff. and 81 ff., where he explains the distinctions between *Wesen*, *Schein(en)*, and *Erscheinung*. The interpretation of §§ 181 and 189 must reconcile two aspects: on the one hand, civil society is the appearance (*Erscheinung*) — in the form of *verständige* relations and processes — of an inner, *vernünftige*, foundation (*Grundlage*, which is the conceptual union of the universal, particular, and singular moments of concrete freedom and "right"); on the other hand, this foundation or essence (the political community) "*only shines*" (§ 181) without manifesting itself in an adequate appearance so long as the socioeconomic system is considered abstractly in isolation from its integration or *Aufhebung* in the state. Once we understand civil society as a subordinate dimension of the political community, it becomes the *verständige* manifestation that reason requires in order to concretize its essential unity in the social life of singular subjects motivated by their particular interests.

The system of needs is analyzed in three steps, dedicated respectively to (a) needs and their satisfaction (§§ 190-195), (b) work (§§ 196-198), and (c) resources (*Vermögen*, §§ 199- 208).¹⁴ The logical justification for this division is not clearly indicated, but work, the topic of the second part, is introduced as the "mediation" (§ 196) between needs (first part) and resources (third part), and the latter is explained as a condition for *universal* satisfaction. The (onto)logical structure of the concept "shines" through the analysis of the empirical reality, but only dimly.

Hegel endeavors to show how the principles formulated in §§ 182-187 become concrete in the social system. He continues his polemics with Rousseau by unfolding the economic process through which human needs transform a natural foundation, including raw material, corporeal forces, and the needs themselves, into a social, representational, rational, and spiritual realm, rather than leaving them in a state of nature whose "innocence" coincides with a subhuman mode of existence (§§ 191-197). Participation in the economic process does not result in a loss of freedom; on the contrary, it is a necessary liberation from an unfree and primitive way of life. The realization of spiritual possibilities demands detachment from nature, for only from a distance can nature be spiritualized (§ 194R).

Hegel wants to show how human needs, as particularizations of the human spirit, can generate civilization. Two key topics form the core of this demonstration: (1) sociality (§ 192) and (2) *Bildung* (§ 197). The deduction of the social dimension from human neediness parallels the deduction of interpersonality from the concept of personality. Since need is a concrete mode of *being-there* (*Dasein*) in which personality realizes itself, it is necessarily a *being-there-for-others*, just as being a person in § 71 was explained as being-there-for-other-persons. The difference between the two inferences is that needs belong to a more natural dimension than personality and thus create a more concrete and more empirical

¹⁴ The expression *Vermögen* is difficult to translate. It encompasses one's total property, including capital and all economic means. "Resources" comes close, but it lacks the sense of the dialectical interdependence of acquisition and use that Hegel emphasizes. He distinguishes the general *Vermögen*, which is the totality of resources of a society (§ 199), and the particular *Vermögen*, the volume and quality of which is determined by the basic *capital*, the talents and skills, and the circumstances of the individuals or associations that possess it (§ 200).

network of intersubjective relations than the abstract relations summarized in the contract. Parallel to the mutual recognition of persons (§ 71), recognition on the basis of similar needs founds a network of economic mutuality. *This kind of recognition is the emergence of sociality* (§ 192).¹⁵

In the introductory sections 190-191, Hegel contrasts human needs with the simplicity of animals. He shows how different human needs are, beginning with the quantity and complexity of partial and subordinate needs, means, and modes of satisfaction. Their multiplication and complexity binds the individuals together through innumerable ties, which strengthen their social cohesion.

A further conquest of nature is that sociality itself becomes an end: we *need* contact and communication with others. We want to share, to be like others, to be equal in clothing, housing, behavior. Imitation, fashion, and status symbols extend and multiply our needs. At the same time, we want to be special, and this again creates new needs, but our particular preferences are always variations on general trends and fashions of the society (§ 193).

The socialization of needs transforms their character. Originally given by nature, they become refined, civilized, and stylized through human imagination, customs, imitation, experiments, and so on. In striving for satisfaction, we now relate in fact to the spiritualized nature of civilized emotions.

The spiritualization of human animality becomes even more obvious when we consider *labor* and other kinds of work as the necessary mediation for the acquisition and exchange of goods. By transforming raw material and using appropriate tools, for

¹⁵ If "social" (*gesellschaftlich*, § 192) can be reserved for socioeconomic relations. We could then enumerate the following relationships, according to the various levels that have been explored up to this point:

- conscious and self-conscious relations: mutual recognition of (self-) consciousnesses;
- interpersonal relations: mutual respect and contractual relations;
- intersubjective relations between moral subjects in action;
- intrafamilial relations: love;
- social or economic-based relations.

All of these (and other) levels of relationship are levels of recognition, but each time this must be qualified: recognition of the other *as* self-consciousness, *as* free willing, *as* person, *as* moral subject, *as Mensch*, *as* citizen, *as* religious, *as* philosopher, etc.

example, labor replaces subhuman nature with a world of human creation (§ 196).

Socialization and technology together constitute the *Bildung* that is necessary for participation in the economy. The satisfaction of human needs requires the cultivation of many corporeal, psychical, and intellectual skills. In § 197, Hegel summarizes the activities through which nature is transformed into an objectification of the spirit, thus becoming a "second nature." He distinguishes the theoretical aspects of this civilization, hinted at in §§ 191 and 194, from its practical aspects, manifested in labor. Intellectual cultivation involves acquaintance with a host of facts and complicated mechanisms and the development of an appropriated language. Wants and tastes are refined, specific customs and manners develop, people discover how to adjust to the conditions of material and means, they learn social skills — and, in general, they become disciplined.

It is unclear whether Hegel wants to present the modern economy as a triumph or not. On the one hand, he emphasizes that an advanced division of needs, means, and labor makes the work of singular individuals simpler and more abstract, and, in that sense, more universal (§ 198, cf. also § 197: "universally valid skills"); on the other hand, he underscores the "complete dependence and necessity" that ensues from that division (§ 198). What does it mean to say that human labor can be replaced by machines? Is the greater productivity that is made possible by technology worth its price? The "abstract" and intellectual character of modern economy and culture is certainly not a direct expression of reason. The technological liberation from nature (§ 194R) is only *formal*: it frees us from subjection to a primitive nature by making us more and more independent, but it cannot liberate us from the determinism of the market, which is ruled by the vectors of particular interests. Not united by a universal principle, these interests cannot form a balanced totality. The only universality to which the savage forces of particular interests are subordinated is the abstract universality of economic laws, but these create a scandalous gap between overabundance (*Luxus*), on the one hand, and extreme want and dependence, on the other (§ 195). As long as the market is left to its own devices, this gap cannot be filled. This imbalance is not derived from natural causes alone, but also (and for the

most part) from the free will of the participants. Since individual choices and natural needs are the two basic determinants of the economic system, a radical correction of its mechanism is impossible, unless another, higher principle is introduced. Insofar as human existence is restricted to its socio-economic dimension, however, free choice is the “absolutely hard” element that resists a fair distribution of the products of human labor.

The Stände (§§ 199-207)

In the third subsection of the system of needs, entitled *Resources* (*das Vermögen*), Hegel focuses on the relations between the totality of the society’s wealth and the participation of singular subjects within the society. He shows how the various “classes” or “estates” (*Stände*) mediate between the general *Vermögen* and the private individuals, thus emphasizing the role of the particular moment in the interchange between the singular and the universal.

From the perspective of individuals, the entire economy is the result of their egoistic striving for subjective satisfaction. The economic mechanism itself, however, creates an objective network of universal dependence thereby producing collective wealth. The production of this wealth depends on the possession of capital and work. Work presupposes adequate talents and formation (*Bildung*); formation again presupposes the possession of at least some capital (§§ 199-200) in addition to natural talents. The distribution of the collective product thus depends upon many contingent circumstances and individual choices, which explains the considerable inequalities that exist among various individuals’ resources (§ 200). The inequality in the quality of life is a necessary outcome of the inequality that is a fact of nature: some people are born with great talents, others have inherited a large capital, still others are handicapped. That natural inequality generates a social and cultural inequality is normal, because the spirit does not abolish, but rather transposes the natural diversity onto the social level, where it causes inequalities in skills and culture. The socioeconomic system is incapable of fully reconciling these inequalities with the abstract demands of a basic equality that were justified in the first two chapters of the *Grundlinien*. This incapacity shows that civil society has not entirely overcome the state of nature; the principle

of particularity (in power and other advantages) remains relatively independent of the principle of universality, which therefore takes the character of an ought (*Sollen*) in the face of the economy. The relative opposition of both principles defines the structure of civil society, but it would be wrong to view it as the ultimate truth of social life. The wisdom of the intellect (*Verstand*) stops at this point, thus rendering the opposition absolute, but reason knows that a reconciliation not only is required but will also be realized, although this presupposes that a higher level of right and communal life be opened up.

The transition from the unequal equality of individual burghers, typical of the economic level of society, to the integrated unity of a political community is prepared by the emergence of different social "classes" (*Stände*).¹⁶

¹⁶ In the *Grundlinien*, Hegel himself uses "*Klasse*" as an equivalent of "*Stand*," though less frequently and usually in relation to the lowest class of unemployed people. In § 243 he mentions "*die an diese Arbeit gebundene Klasse*," in § 245, "*die reichere Klasse*," and in § 253, "*die gewerbetreibenden Klassen*," whose luxury and prodigality seems to be proverbial. Cf. also *Wa* 167; *Ilt* 4, p. 599 ("*eine besondere Klasse*"), 600, and 609; *Su* 4 (*Landständeschrift*), pp. 485 and 574; *Su* 11, p. 99 ("*Hörigkeit der ackerbauenden Klasse*"; "*die allgemeine Eigentumslosigkeit der von der Arbeit des Ackerbaus lebenden Klasse*"; "*die Eigentumslosigkeit der Landbau treibenden Klasse*"). Richard Dien Winfield, in "Hegel's Challenge to the Modern Economy" (in Robert L. Perkins [ed.], *History and System: Hegel's Philosophy of History*, [Albany: State University of New York Press, 1984], p. 252, note 3), writes that Hegel uses *Klasse* only for the proletariat (which he finds in the factory laborer of *Grl* 243) or the wealthier class mentioned in *Grl* 245, but this does not seem correct to me. Bernard Cullen (in "The Mediating Role of Estates and Corporations in Hegel's Theory of Political Representation," in Cullen [ed.], *Hegel Today* [Aldershot: Avebury, 1988], pp. 36-37, note 36) with a nod to Allen W. Wood's *Hegel's Ethical Thought*, identifies classes as "vertical" divisions of wealth and power in society, and estates (*Stände*) as horizontal or occupational divisions. He, too, refers to *Grl* 243 and 245, but also to 253R (Cullen, p. 39, note 19). In § 253R, however, "*gewerbetreibende Klassen*" (three classes of tradespeople) is used in an occupational sense. The same is true of the examples quoted above from *Su* 4 and 11.

In "Historische und theoretische Voraussetzungen des hegelschen Klassebegriffs" (*Hegel-Jahrbuch* 1975: 108-123), Michael W. Fischer informs us that the word *Klasse* was used in the *Allgemeine Landrecht* for Prussia (1794), for example, in § 52, II, 10 and § 130, II, 17, and was a well-known expression in the last decade of the eighteenth century, used, for instance, to name "the industrious class," but also to indicate the farmers or the nobility. The basis of a class has to do with economic advantages, duties (e.g., taxation), or privileges.

In Nürnberg, Hegel offered the following definition of *Stände*: "The various *Stände* of a state are, in general, concrete differences, according to which the individuals are divided into classes (*Klassen*), which are principally based on the

"*Stände*" are groups of individuals who share certain needs, means, modes of work, and ways of satisfaction, and consequently a characteristic style of life. On the basis of their own form of production and exchange, they also develop a specific kind of theoretical and practical culture (*Bildung*), i.e., typical modes of language, education, religion, and legality (§ 203R). By having a characteristic way of life and work, the various classes differentiate the society in a variety of "general masses" or "particular systems" (§ 201).

The *first* class comprises the hereditary owners of large tracts of land (the so-called *Junkers*). The soil is their main resource and their products are obtained by the cultivation of nature. Their existence is ruled by the regularities and contingencies of nature, to which their work must adjust. Their bond with nature characterizes their customs and lifestyle. Trust and obedience, rather than autonomous reflection and choice, characterize their attitude; nature and family play the primary role in their life (§ 203). According to Hegel, this class is fundamental for any political community. In § 203R (cf. also § 350), he says that the foundation of the state coincides with the beginning of agriculture, and that this coincides with the emergence of marriage, family, and private property.

inequality of wealth, education (*Erziehung*), and culture (*Bildung*) (all of which in their turn are based on inequality of birth), which makes the individuals more useful for a specific activity within the state than for another activity" (Su 4, p. 63). This definition, along with some of his examples, suggest that there are more than three *Stände* or *Klassen*. In GrI 204, Hegel distinguishes three (sub)classes of the *Gewerbestand* (cf. also § 243) and similar subdivisions are possible for the other main *Stände*.

In Hegel's article on the English Reform Bill (1831), "*Klasse*" is used perhaps more often than *Stand*. Cf. *Berliner Schriften*, p. 463: "the various classes and factions of the people" (who take part in the election of the members of the parliament); p. 480: "the agrarian class," "the class of the farmers"; p. 488: "the middle and the lower class" and the "higher class"; p. 498: "the political class"; pp. 499-500: "that class" and "the new class." See also Gian Mario Cazzaniga, "L'analyse des classes sociales dans la société civile hégélienne," in *Hegel-Jahrbuch* 1986: 87-94.

Rolf K. Hočevár, *Hegel und der Preussische Staat* (München: Goldmann, 1973), provides interesting information on the social, legal, and political background of Hegel's views, especially in relation to the ALR (the General Code of Law of Prussia, promulgated in 1794). He claims that, with respect to many questions, Hegel took a conservative position. On the *Stände* and their representation in the chambers, see pp. 24-25, 41-42, 86-90, and 110-111; on *Polizei* and *Korporation* (see below), pp. 37-40 and 91-94; on the *Majorat*, see pp. 95-96.

A *second* class encompasses three subclasses: those of the *artisans*, the *manufacturers*, and the *merchants* (§ 204). Their work is more autonomous than that of the farmers and their relation to nature and its products is less direct; they transform the products of nature into human products and focus on economic forms of mediation between the needs and work of all the burghers. The members of this class must therefore cultivate their intellectual and reflective skills.

A *third* class includes all who work for the universal interests of the society; their task is thus a universal one, which makes them mediators par excellence between the society and the state. This class encompasses the civil servants, the police and military, and, in general, all state employees, including university professors and teachers in public schools. Its members are either wealthy enough to support themselves and their work for the state, or they earn a salary from the government to satisfy their private needs.¹⁷

As we have seen above, Hegel presents his division of the society as the expression of a conceptual structure: the distinction between the classes is necessary "according to the concept" (§ 202, cf. 206). However, it is not clear which concept he has in mind. Civil society itself does not constitute a true concept, but only a more or less dualistic quasi- or pseudo-concept. Nonetheless, there is some plausibility in associating the *natural*, the *mediating*, and the *universal* class with the *immediate* or *substantial*, the *reflective* or *formal*, and the *universal* moment of the concept (§ 202), respectively, and in justifying the subdivision of the second, reflective class by emphasizing the differences between (1) work for *singular* needs of singular persons (the artisans' work), (2) collective but abstract work for *singular* needs of a *universal* character (the mediating

¹⁷ Though Hegel divides the various *Stände* according to their different relations to nature (1. immediate dependency, 2. a somewhat distanced and indirect relationship, and 3. hardly any relationship), the cultural differences are indicated and presented as consequences of the more or less "natural" character of the means of subsistence. In his valuable article "Hegel on Ownership and Citizenship," in *Pelczynski, State*, Alan Ryan exaggerates when he writes that "Hegel's division between classes is a cultural rather than an economic distinction" (p. 194). He does, however, have a point: the civil and political importance of the *Stände* lies to a large degree in the *Bildung* that makes their members fit for specific tasks in the social and political organization of the state.

work of manufacturers), and (3) work that makes possible the exchange of *singular* products through the abstractly *universal* means (the merchants) (§ 204). The mixture of singularity and universality typical of the second class expresses rather well the structure of the entire civil society, whereas the farmers are closer to the family and the universal class is closer to the political community and its government.

The importance of the *Stände* and of Hegel's endeavor to show their (quasi-)conceptual necessity becomes somewhat clearer in light of their *political* significance (see Chapter Ten). Their emergence from the socioeconomic and cultural processes of the society bridges the gap between civil society and state. With *and* against the contractarians, Hegel argues that the principle of private property, once concretized in the socioeconomic system, demands the development of particular associations in which the common interests of certain groups or "masses" are realized. All persons belonging to one class share a general interest, but this differentiates itself into the particular interests of specific groups with an identity of their own. Hegel would not be Hegel, if he did not try to deduce the specific interests and groups from the universal interest of the society as a whole. The logic of the concept suggests a structure for such a deduction and it might make sense to conceive of the main *Stände* as three moments of one concept, for that would show how civil society is indeed a totality — albeit a relative one.

The differentiation of the genus *Stand* into a plurality of classes and sub-classes, presented in §§ 202 and 206, is meant to complete the structure of the economic system; however, the necessity of their objective order does not abolish the prevailing individualism of subjective choices and decisions. Many natural factors, like birth, innate talents, and particular circumstances play a role, but in the end it is the choice of individuals that determines which class they belong to. Being a member of a particular class is an important part of property; it concretizes the right of all individuals to make themselves respectable and happy by granting them recognition, support, rewards, and honor if they fulfill *their* obligations. In contrast with Athens, Sparta, the Roman Republic, India, etc., the modern state tolerates — and *even* desires — that its citizens choose their occupations and dealings freely, even if

this liberty seems to cause some disturbance. Freedom of choice in private affairs is recognized; rather than abolishing the objective determinations of economic rationality, it concretizes them (§ 206 & R). The right of individual subjects to achieve satisfaction through their own actions (cf. § 121) does not destroy but rather confirms the necessity of the objective order in which the actions occur. From the perspective of the individuals, compliance with that order is inevitable: to be anyone at all among the members of the bourgeois society, one must concentrate on *particular* kinds of needs, work, education, class culture, and behavior. Even honesty (*Rechtschaffenheit*), as the moral and ethical aspect of social life, has a different character according to the specific classes. Particularization is quite normal and without differences in honesty virtue would not be concrete. Reluctance to engage in the existing patterns of one's society and class — the normal reaction of youngsters — must be overcome, because differentiation is the only possible mediation between the universal laws of the market economy and the concrete self-actualization of singular persons (§ 207 & R).

Transition (§§ 207-208)

The description of the "system of needs" comes to an end in § 207. The two last sections (§§ 207-208) make explicit what remained only implicit in the former sections: the right of singular persons to achieve specific satisfactions through their own choices and endeavors, and the necessity of an objective institution that guarantees the realization of the principles of right explained in Abstract Right and Morality.

The right to individual property and well-being requires economic concretization, but this can be resisted by wills that do not recognize that right. Unlawful, criminal actions, though not destroying existing rights, can destroy their actualization. Two conditions must therefore be realized for the existence of a just economic order: a subjective moral condition, and an objective one. The moral disposition (*Gesinnung*) of the acting subjects must be ethical, *i.e.*, in agreement with the universal character of right, insofar as this can be realized on the level of civil society. Though the agents pursue their own particular interests, they should not

prevent or hinder others from doing the same. Honesty (*Rechtsschaffenheit*) is demanded from the burghers to preserve justice in the market mechanisms of the economy. Those who concretize this general demand by fulfilling the obligation of their profession are honorable; they receive recognition for their ethical demeanor, and more specifically, they realize the honor characteristic of upright members of their class (*Standesehre*).

Besides this professional honesty, still another form of morality plays an important role in civil society. Since this is the dimension where the agents are primarily concerned with their own private well-being, while the economic process is full of contingent successes and failures, it continually needs to make adjustments for people who risk being reduced to begging. There is, thus, a need for assistance in singular cases of necessity (cf. §§ 125-128). Personal aid therefore remains necessary in addition to the structural measures of which we still must speak.¹⁸

However, moral means are not sufficient to guarantee a just society; objective institutions are even more important and necessary. Because economic mechanisms by themselves are not capable of preventing or making reparation for unjust behavior in civil society, a specific institution is needed to protect the actualization of individuals' rights against attacks in a society of more and less honest persons. According to Hegel, the required institution is itself part of the civil society.¹⁹ The threat of injustice — cheating,

¹⁸ § 207 end; cf. § 242 & R.

¹⁹ In contrast with most modern political theorists, Hegel does not see the judiciary as one of the (three) main powers of the state. By placing the administration of justice (§§ 209-229) in the civil society, he grants the society a large measure of freedom to rule itself, though it cannot make general laws. However, this placement is misleading because Hegel *also* considers the *Rechtspflege*, together with the *Polizei* (§§ 231-249), as a subordinate part of the executive or "governing power" (*Regierungsgewalt*, § 287). The judge is a public official, whose will is the will of the universality (Wa 57) and "only in a state is a judge possible" (Wa 46). However, Hegel does not see any reason why the adjudication of crimes against the state (e.g., against the majesty of the king) would need special treatment in a *philosophy* of right. All crimes fall under the generic definitions of the chapter on abstract right; their specification and the treatment of crimes against the state are questions of application, which belong to the positive study of law (GrI 282R, cf. 99R and II 4, pp. 287-288). Although Hegel locates the judiciary in the civil society, in § 295R he approves of King Frederick the Second's interference in the then famous trial of a certain miller called Arnold. About the circumstances of this case, see Rolf K. Hočevár, *Hegel und der Preußische Staat* (München: Goldmann, 1973), pp. 32-36.

breaking of contracts, theft, or murder — necessitates an independent administration of justice (*Rechtspflege*, §§ 209-229).

The Administration of Justice (§§ 209-229)

To understand how Hegel deduces the judiciary and why he locates it where he does, we must return to his first chapter, where he introduces *Unrecht* as the negation of the personal rights to property and their development in contractual relations (§§ 82-103). We have seen how, at the end of that chapter (§§ 104-105), a will was deduced, which, in an embryonic form, contained the definition of the judge: a will that wills and realizes the universality of right in cases where it has been transgressed. The subjective element of this will (a good attitude) was analyzed in the chapter on morality, whereas the objective element (the right judgment and the power to realize this) is developed in the section we are now studying.

Before following Hegel's analysis, it is good to ponder the question of why he locates the administration of private and criminal law in the dimension of civil society and not in the state, as one of its main powers besides the legislative and the executive. As we will see in the next chapter, the judiciary is a power that does not belong exclusively to civil society, because it is presented in § 287 as a subordinate part of the executive or "governing" power (*Regierungsgewalt*), together with the "*polizeiliche Gewalt*" or "*Polizei*," which is also treated as part of civil society (see below, §§ 231-249). As belonging to both the social and the political dimensions, *Polizei* and *Rechtspflege* are therefore bridges between the multitude of self-interested individuals, which are linked together through contractual relations, on the one hand, and the universal unity of the common cause of which they are components, on the other. Hegel treats the individuals as parts of civil society in order to emphasize the (relative) autonomy of those social institutions

Hegel's theory of the administration of justice (§§ 209-229) has received little attention from Hegel scholars. It is certainly neither the most original, nor the most interesting part of his practical philosophy, but, like his reconstruction of the traditional family, it is an essential component of his *politica*. A complete study of the role played by the law in Hegel's practical philosophy is Armin von Bogdandy, *Hegels Theorie des Gesetzes* (Freiburg: Alber, 1989).

that impose a basic pattern of — albeit imperfect — commonality on the unbridled egoism of the market economy. The government does not interfere directly in the market or the application of the laws, but legislation and governmental decrees set the standards, and the state reserves its right to supervision and intervention.

The judiciary system is meant to safeguard the actualization of property right against attacks within the limits of the “system of needs,” as described in §§ 189-208. As the ruling body that oversees this right in all its ramifications, it is the “protection of property” against infringements (§ 208). Together with moral uprightness, the judiciary is the answer to the question that arose when the injustice of both (abstract) *Unrecht* and (private) revenge became clear, at the end of the first chapter (§§ 82-83, 102-103). Its essential features can therefore be deduced from the necessity that right, whose demands and structure were unfolded in the first chapter, must realize itself as an effectively ruling actuality (*geltende Wirklichkeit*). The *Sollen* must be transformed in the *Wirklichkeit* of right’s objective system of sanctioned demands.²⁰

The first demand of right is that it be recognized publicly in the form of valid laws. It must therefore be formulated and specified with regard to the circumstances of the civil society in a certain place and time. The universality of basic human rights, independent of differences in race, nationality, or religion (§ 209R) — a universality deduced from the concept of free will (§§ 1-33) — must now be stated and recognized publicly as the principle of all laws. It must also be specified and applied to the multitude of possible situations and occurrences (§§ 209-211); the abstract right, deduced through reason (*Vernunft*), thus becomes a posited or *positive* right, therewith opening up a wide field for further determinations through the intellect (*Verstand*).

There is no guarantee that positive laws will always conform to the demands of the rational right that they should concretize, because positive right demands the intervention of particular wills, which can be biased (§ 212). Moreover, the right deduced by reason cannot be very precise, for reason is not capable of differentiating the basic imperatives of right into all the details of their

²⁰ § 208. See also § 225 where the “restoration of injustice” is presented as a central concern of the *Rechtspflege*. Cf. *Sieph, Prakt. Phil.*, pp. 247-248.

application within the contingencies of human history. It offers only general determinations, leaving further specifications to the considerations of the intellect (§ 214 & R). Hegel's examples recall what he wrote in his treatment of crime (§ 101R): "It is impossible to determine *through reason (vernünftig)*, or to decide through the application of a determination contained in the concept, whether it is just to punish an infringement with forty lashes or forty minus one, by a penalty of five dollars or by \$4.23 . . ." (§ 214R). In general, the only rule that reason can deduce for the validity and application of positive laws is that reasoning and calculation must stop somewhere: one cannot go on endlessly, but must eventually decide; it is better to have an imperfect law or judgment than to eternally delay a perfect decision (§§ 212R and 214R).

Hegel's distinction between *Vernunft* and *Verstand* has here become a separation between two domains. While the fundamental principles of right can be deduced by philosophers, the concrete workings of the legal system demand another form of thinking: a form in which lawyers are schooled. While philosophical deductions are needed to manifest the necessary and universal principles of law, it is the lawyers who excel at the required mode of reasoning involved in the endless struggle with the recurring contradictions of the legal system. A penalty that is one lash or one cent too much or too little is an injustice and "reason itself recognizes that contingency, contradiction, and semblance have their—*albeit limited*—sphere and right." All the reasons of the *Verstand* cannot yield an unambiguous conclusion; in the end, they lead to an *arbitrary* decision. "Reason itself [. . .] does not bother to overcome those contradictions by determining what is equivalent and just," but it insists on a final decision, which cannot be *completely* justified (§§ 214R and 216R).

Hegel does not have a theory of *phronēsis*. Besides true philosophical knowledge, which comprehends the necessary and universal rationality of the existing reality, there is an imperfect application of this knowledge to a recalcitrant material, dominated by contingency and arbitrariness. Intellectual reflection mediates between the two, but neither they nor reason itself are capable of completely bridging the gap. A decisional element must "break off" (*abbrechen*) the chain of reasons and simply "establish" (*festsetzen*) for the sake of establishing" (§ 214R). The empirical or natural

side of society in the end retains a dark element that escapes the grasp of human reason.

If right must be manifest in laws, people must be informed about it through a written legal code, not by a special caste whose study has enabled some privileged persons to know what here and now is lawful (§§ 215-216). Hegel here implicitly polemizes against the historical schools of right,²¹ but he recognizes that a legal code (a) cannot be perfect, and (b) demands continual updating because of the historical changes that are inevitable (§§ 216R and 218R).

Criminal Law (§§ 218-228)

Of the twenty-one sections dedicated to the judiciary (§§ 209-229), eleven sections (§§ 218-228) focus on the just punishment of crime. The court and, in the first place, the judge (§ 219 & R), which was merely postulated in § 103, are now deduced as conditions of actual retribution. Civil society is the place where vengeance is left behind. The public judgment, pronounced by the judge following due process (§§ 219-224), accomplishes a complete reconciliation between the injured universal will (right or free will as such) and the particular will of the criminal: objectively, insofar as the law's validity is restored through the negation of the crime; subjectively, insofar as the criminal, whose own (universal) will condemns his unlawful action, approves the annulment of his criminal will and rejoins the law.

In four sections (§§ 225-228), Hegel gives an argument for the introduction of a jury system, insisting that the defendant has the right to be judged by persons *he* can trust, and if possible by people of the same class. In his course of 1824-25, Hegel argues much more extensively for this institution, which did not exist in Prussia (Ilt 4, pp. 567-585), but in the *Encyclopedia* of 1827 (B 531R) he says that arguments in favor of a jury system "rest rather on non-essential (*außerwesentliche*) considerations" and in the *Encyclopedia* of 1830 he even calls such arguments "a mixture and confusion of objective proofs and subjective, so-called moral conviction," and a mixture that "properly belongs to barbaric times"

²¹ For the context of this polemic see Giuliano Marini, "La codificazione in Germania," in his *Storicità del diritto e dignità dell'uomo* (Napoli: Morano, 1987), pp. 55-88.

(C 531R). Hegel continues to maintain, however, that the *questio facti* (What happened? Which kind of crime has been committed?) and the *questio juris* (the correct subsumption of the fact under the law of retribution), as two different functions, must be answered by different persons. The judge can leave the question of the fact to others, but as the “organ of right,” he must make the final decision (§§ 225-227). An important factor in its preparation, emphasized even more in Enc BC 531 than in GrI 227, is the conscience of the defendant as pronounced under oath.

With regard to the punishment of crimes, Hegel makes a remark that considerably qualifies the statements on retaliation contained in the chapter on abstract right (§ 218 & R). Because a crime is not only the injury of another person, but also a social event with a considerable impact on the society in which it occurs, the evaluation of the criminal act must include the question of how dangerous the criminal is for the society at large. The answer to this question depends on the moral and ethical character of the society in question. If law and order are generally respected, a crime has less impact than it would have in violent societies. There might be situations in which capital punishment is justified as a response to the theft of a few cents or a turnip, but a better society justifies “greater leniency in the retribution” (§ 218 & R).²²

Critique of Common Law (§§ 211R, 215R, and 228R)

Against “the historical school of right,” Hegel argues that a “civilized nation” requires a written code in which its laws are clearly formulated so that all the citizens can know what their public rights and duties are.²³ If a nation lacks such a code, it commits a fundamental injury against its citizens. Napoleon and the post-Napoleonic rulers who granted a civil code to their nations must be thanked for their act of basic justice.

In response to the objection that the life of a people, as a process in continual transformation, cannot be fixed in a written codification, Hegel concedes that historical developments cannot

²² For more on the circumstantial aspects of criminal laws and penalties, see *Ilr* 3, pp. 661-666. On p. 605, Hegel clarifies his purpose by referring to the English law that declared the theft of an object valued at over 40 shillings punishable by hanging.

²³ See Giuliano Marini, *Storiata*, chapters 3-6 (pp. 55-210).

be stopped, but that (a) the civil code need not bother about the details of its application, which is a question of the judiciary, (b) the code must be updated regularly, and (c) the code must not introduce new laws, but clearly establish what, in the course of the national history, has become the publicly recognized law (see also Ilt 3, p. 657). Those who oppose a codification refer to the historical wisdom expressed in the customs and decisions of the past, but what prevents them from putting those customs and decisions into words? If they answer that this is too difficult or impossible, they not only fundamentally wrong their fellow citizens, but also seriously offend the culture of their nation. The systematization of particularities that, through usage and jurisprudence, have become the law of the nation, demands only technical skill (Ilt 3, p. 654); if the caste of lawyers is unable to do that, it should be ashamed of itself.

To emphasize his point, Hegel refers to English common law (*gemeines Recht*, § 211 R). Even the best lawyer cannot know all the laws that in the end have prevailed over former laws and customs, because of the unsystematic way in which all sorts of details are handed down (§ 215R, Wa 152). Since decisions of the court play such an important role here, a “monstrous confusion” rules the English law. A judge is free to follow or not follow the decisions of his predecessors; for, though the latter are said to be mouthpieces of the unwritten law, the actual judge too represents the unwritten law; he may therefore correct, reject, or maintain former decisions. But this means that his power permits him to usurp the rights of a legislative body.

If the law is not promulgated in a public code, it becomes the private property of the lawyers (§ 228R), thus overturning the fundamental right of all citizens to know whether their actions obey or transgress the law. Positive law then becomes violence; the citizens are alienated from their most proper freedom and fall prey to servitude because they can no longer participate in the judicial process. Corporeally they can still appear in court, but not spiritually. Trust in the judges and their friends, the lawyers, then becomes impossible and the outcome of a case falls upon them as an incomprehensible destiny (§ 228R).²⁴

²⁴ See also Wa 153-154 and Ilt 3, pp. 653-654.

The conclusion of Hegel's arguments is that the common law system and resistance against codification are crimes against the people. While condemning England's common law, Hegel praises the codification of the Prussian *Landrecht* in 1794, but he denounces the conservatism of the historical school, the esotericism of the lawyers' profession, and the still existing practice of closed court sessions.

The Administration of Social Security (§§ 230-256)

The fundamental antinomy of civil society lies in the fact that its "system of needs" is intended to realize the right to personal subsistence and well-being for all individuals without, however, being able to fully guarantee this realization. All persons have the positive right to live, and this implies the right to share in the resources of the society to which they belong (cf. Wa 160). Furthermore, in §§ 125-128, we learned that they, as moral agents, not only must be concerned about their own well-being, but also of the well-being of others. All the players in the economic game are thus obliged to contribute to the general well-being. The society as a whole is thus responsible for the subsistence of its members. However, it cannot entirely fulfill this task. As Hegel formulates it in § 245, "despite *the excess of its wealth*, the civil society is *not wealthy enough* [. . .] to find a remedy for the excess of its poverty and the generation of rabble" (*Pöbel*).

Since the system of needs is built on private endeavors, it is ruled by a mixture of social laws and contingency. Individual choices (*Willkür*) and particular interests, founded in natural needs, should respect the basic rights of all participants, but they cannot guarantee that even well-intentioned plans do not infringe on the rights of others (§§ 230, 232, and 233). Even if these rights are recognized in abstracto, civil society cannot guarantee that they be realized in the well-being of all participating individuals, because its atomistic structure does not allow for a general will that would harmonize the conflicting enterprises of private persons.

The antinomy between (abstract) right and well-being (*Wohl*), which emerged in a still abstract form toward the end of the chapter on morality (§ 128) and has now shown its concrete and modern shape, cannot be resolved as long as the realization of

right depends merely on the subjective *Willkür* that dominates the civil society (§ 230). Certain social institutions must be invented to guarantee some sort of general well-being (§ 231).

Good practical judgment is needed to mediate between a multitude of individual plans and to solve innumerable conflicts of interest. The application of the principles of right to a variety of actions in ever-changing circumstances demands prudence. But how can prudence be institutionalized? And how can we be sure that such prudence is guided by concern for the interest of *all* individuals? The circumstances themselves might contain some suggestions and the existing mores may provide an orientation, but these factors are insufficient. Decisions must be made to subordinate the chaotic ensemble of private affairs to a general form of well-being, and this presupposes that certain persons have public functions, for only public powers can function in the name of *general* well-being (§§ 234-235).

"Police" (§§ 231-249)

This is the point where a supraindividual power must intervene in the affairs of the society. Since a multiplicity of self-interested individuals cannot guarantee the realization of all personal rights, a public institution must take responsibility for the general interests without which no one can live a decent life (§§ 235-236, cf. § 231). Not only does the satisfaction of material needs and infrastructures, such as streets and streetlights, demand provisions on the part of public authorities, but so does the opportunity to preserve one's personal credibility. As examples Hegel mentions price-control with regard to basic goods, food inspection, and anti-trust measures (§ 236). To safeguard individual freedom, authorities must find a balance between private initiatives and the general interest; the modern society cannot fall back on pre-revolutionary and pre-industrial restrictions of free choice for an appropriate profession. General provisions are required, particularly with regard to modern industrialization and the volatile world market, which cannot be controlled by individuals.

However, even public surveillance cannot prevent all the injustices that are the byproduct of modern capitalism. The privatization of capital and the individual character of health and skills

remain sources of contingency and poverty (§ 237). Modern society has aggravated the basic antinomy of civil society by abolishing the pre-modern role of the family. Through the liberation of singular individuals as free subjects of rights, modern society has "torn the individual out of family ties," adopting them as "sons of civil society" (§ 238). In place of the old household (*oikos*),²⁵ the society of private owners is gradually becoming the "family" thanks to which individuals can enjoy their socioeconomic rights and duties. The society, as a "universal family," has therefore the right to regulate the education of its members insofar as it concerns their ability to participate in socioeconomic processes, even against the will of the parents (§ 239).

That the society as a whole must take over many tasks of the family is especially obvious with regard to the poor. Many elements contribute to poverty, but the new social system makes it a particularly difficult problem: by cutting off the ties with the family and by replacing reliance on available soil and natural products with dependence on industrial and financial means (cf. §§ 54 and 217R), the public power, or — as Hegel says — the "universal power" must take care of the poor — not only of their material being, but also of their education, their honor, and their avoidance of criminality (§ 241). Insofar as poverty has a contingent and subjective aspect, charity has a function, but it is too moral and subjective to be counted on for solving the inherent problems of the social system. Charity must therefore be replaced as much as possible with public institutions with regard to housing and health care (§ 242R, cf. § 207).

Hegel is sharply aware of the internal links between the industrial revolution and the creation of poverty on a large scale. In §§ 243-245, he resumes the socioeconomic analysis of his time²⁶ concerning the growth of wealth and of the population, accompanied

²⁵ Which played a fundamental role in political philosophy from the Aristotelian *Oeconomica* to Kant's *Metaphysics of Morals*. On the relations between the family and civil society according to Hegel, see also §§ 181R (cf. Aristotle, *Politics* I, 2 [1252a34-1252b35]), 252 (civil society as a "second family"), 253 & R, and 255.

²⁶ Hegel's analysis of the modern economy is not original, but he attempts to discover the logic that underlies the available social theories and the phenomena they describe and explain. See Rolf-Peter Horstmann, "Hegels Theorie der bürgerlichen Gesellschaft," in *Sieph, Grundl*, p. 210.

by an ever-growing disproportion between the very rich and the very poor. He insists that those who fall below the level of basic subsistence lose not only the feeling that their rights are respected, but — since they cannot ensure their welfare by their own activity — also their sense of honor. Capitalism produces a proletariat,²⁷ whose subsistence it cannot guarantee. Neither organized charity, inviting wealthy individuals or foundations to ensure the survival of the poor, nor the creation of more employment can really solve the problem.²⁸ Charity leaves the poor without labor, and therefore without honor, while increased opportunities for labor aggravate the dire consequences of the market system (§ 245). Hegel concludes his analysis of the national economy with the sentence already quoted: “Here it becomes apparent that, despite the *excess of its wealth*, civil society is *not wealthy enough*, i.e., it does not possess enough in its own resources, to find a remedy for the excess of its poverty and the generation of a proletariat” (§ 245).²⁹

Although sections 246-248 briefly reflect on the extension of the national economy to international commerce and colonization,

²⁷ Hegel does not use the word *Proletariat* to name the unemployed, unskilled, and destitute “rabble” that do not belong to any *Stand* because they have neither property nor a profession (§ 253R). Most often, he uses *Pöbel* (e.g., §§ 244 and 245R) to indicate that they, as marginalized persons, are an unresolved problem rather than an integral part of the society. Poverty can lead to a *pöbelhafte* (plebeian) *Gesinnung*, but unemployment is more damaging because it dishonors the person in question. Hegel believes—along with many bourgeois — that one must *earn* one’s own subsistence by usefully contributing to the freedom and well-being of the state. Cf. GrI 244, 245, 253, and Ilt 4, pp. 608-609, 611. In Su 4, p. 249 (from a high school course in 1810), “the rightly (*rechtlliche*) citizens” are opposed to the populace (*Pöbel*), which is “that part of the people that does not have property and whose dispositions (*Gesinnungen*) are unrightly” (*unrechtlich*). When the latter part does not allow the former to govern the state, the nation has become an “ochlocracy,” which is a perversion of democracy.

²⁸ GrI 245. In Ilt 4, p. 611, Hegel speaks about a program of public work for unemployed laborers, but he objects that it would lead to overproduction and thus rob others of employment.

²⁹ In order to understand GrI 245R, where Hegel refers to English measures concerning poverty, some information about the Scottish relief system is necessary. According to Norbert Waszek, “Hegel’s Schottische Bettler” (*Hegel-Studien* 19 [1984]: 311-316), certain beggars were licensed to beg by the king, a town, a university, or another public entity, while others were not. This policy led to new forms of injustice, which would explain why the relief system was abandoned, as Hegel reports in § 245R. However, when Hegel, in his course of 1824-25, explains the Remark to § 245, he does not refer to the Scottish system and his statement is unqualified: “the best measure is to abandon the poor to their destiny and to tell them: go begging” (Ilt 4, p. 612).

while the last seven sections of the chapter (§§ 250-256) propose a particular organization of the industrial and commercial class (see below), the basic analysis of the socioeconomic system is completed in § 245. The section entitled *Polizei* (§§ 230-249) is dominated by the insight that modern society, which is based on individualism and contractualism, cannot overcome its own dispersion, but, on the contrary, inevitably aggravates it by creating a growing opposition between property owners and a social class which, in losing material goods, labor, honor, and all realizations of its rights, returns society to a precivilized state comparable to the state of nature. Instead of the harmony expected from the invisible hand described in the first part of Hegel's chapter on Civil Society, the end of the chapter reveals inherent contradictions that would completely destroy the society if no public "universal power" (§ 241) were to overcome the *aporiae* caused by the industrial capitalism of modern society. As we will see, all of the main parts of Hegel's *Rechtsphilosophie* end at an impasse, and not with a reconciliation or synthesis. The end of this chapter is particularly disturbing because it reveals the impossibility of actualizing personal and social rights *for all* within the framework of modern economy, even by public intervention of the state.

International Economy (§§ 246-248)

The unresolved "dialectic" of the social contradictions described in §§ 241-245 force the national society to engage in international exchange and colonization. In a few succinct remarks, Hegel maintains his nationalistic perspective without ever asking whether the citizens of other nations may have rights that could be damaged by one nation's expansion. For instance, he considers the advantages of colonization for the colonizing nation (§ 248)—part of the national population can find a new domain for its devotion to labor—but he does not waste a word on the rights of the colonized population. It is as if, after his distinction between person, subject, *Mensch* as needy being (§ 190 & R), bourgeois, and citizen, *Mensch* in the sense of "human being" does not interest him, despite his constant search for universality and totality. And yet, in § 209R, he has formulated the abstract principle that "a *Mensch* counts because of his being *Mensch*" (and not Jew, Catholic, etc.) and calls it "of

infinite importance.” However, he does not want it to be heard as a principle that could be played off against the sovereignty and well-being of the nation-state, for instance, under the mask of some cosmopolitanism (§§ 209R and 330 ff.; see below, Chapter Eleven).

Though the first two chapters of the *Grundlinien* explicate the unrestricted personal and moral rights of *all* human beings, the horizon of all the following chapters is limited to the rights of the citizens of single nations. Nowhere in Hegel’s book are the mutual rights of private individuals of different nations thematized; even economic relations between nations are seen only from the internal perspective of one nation.³⁰ The only place, as far as I can see, where he indicates a *legal* aspect of international relations is the last sentence of § 247, but even here he is more interested in the cultural enhancement of a single nation that ensues from commercial relations with other nations:

Through this greatest means of communication [namely, the sea], [the civil society] brings distant countries into relations of exchange, [and thus into] juridical (*rechtliche*) relations that introduce contracts, an exchange which is the greatest means of civilization (*Bildung*), while it gives the [international] trade its world-historical meaning (§ 247).

This sentence contains the seed for an entire treatise, which remains unwritten, although Hegel’s logic seems to demand it. The statement that international relations based on needs, labor, and production have the juridical structure of a contract and thus of international private law, implies that the structure of “abstract right,” whose abstraction and dispersion Hegel attempted to overcome in a perfectly free community (the state), cannot be confined to one country or nation. By itself, civil society cannot have a national horizon; it necessarily opens the international dimension of human needs and rights. The contractual structures that are unfolded in the legal regulations of the international order restate the problem of abstract right, morality, and civil society on a supranational level: How can the various national economies be organized and understood as components of one humanity?

³⁰ In Wa 166-167, a few examples of international trade are given, but they do not lead to a consideration of non-domestic rights.

Hegel neither asks nor answers this question. Though hinting at an internationalization of right and contract, needs, labor, and mutual exchange, in the next chapter he focuses on the nation's unity and its controlling power with regard to the national economy (including its international relations insofar as these affect the national interests). It is obvious, however, that contractual relations between nations or between private persons and companies of different nations, no less than contractual relations between private persons within one nation, demand the actualization of a higher, supraindividual and supranational universality to prevent and punish criminality on a world scale and realize the *universal* rights of humanity. The first two chapters of Hegel's *Grundlinien* correctly state the basic rights of *all* human beings, but the introduction of *Sittlichkeit* suddenly blocks this universal perspective by declaring, without justification, that the actualization of "the ethical substance, as containing the unity of self-consciousness-for-itself and its concept, is [my emphasis] the *actual spirit* of a family and a people" (§ 156). From that moment on, Hegel uses the term "universality" to indicate a politically well-organized people as the completion of right. While maintaining that the structure of modern society cannot be contained within the nation's borders, he will also show that international crimes and economic conflicts cannot be overcome by juridical means (see below, Chapter Eleven). Though Hegel recognizes the necessity of a worldwide perspective, he contends that this perspective is too broad for right. Only the nation can guarantee its actualization (though not entirely, as he demonstrates in §§ 231-245). International relations may have the form of contracts, but the claims cannot be guaranteed. On this level, violence has the last word.

"Polizei" (§ 249)

Hegel summarizes sections 230-249 by pointing out that they describe a public intervention on the "battlefield" (§ 289R) of the civil society, insofar as it is the combination of an arbitrary play of individualistic needs and labor and a general interest. In § 249 and in the title of §§ 230-256, and more often in his courses, Hegel uses the terms "*polizeilich*" and "*Polizei*." Though the prevention and investigation of crimes also belong to Hegel's "*Polizei*," he

insists on so many other tasks that the translation "police" is certainly wrong. Even for Hegel's own time, he recognizes that "*Polizei* [. . .] in the usual sense has a more limited meaning" (Ilt 4, p. 587), but the broad sense in which he uses it is a legitimate, though perhaps somewhat archaic one. It was, for example, used in the Prussian Code of 1794.³¹

In his course of 1824-25, Hegel defined the *Polizei* in the following way:

Polizei comes from *Polis Politia*; it is the entire activity of the State. Today it is not the activity of the ethical universal as such, but only [the activity] of the universal with respect to the civil society or the state as external state.³²

By providing many examples of state intervention in social and economic affairs in his courses, Hegel makes the indications of his text more concrete. As a secularized Providence,³³ the state must protect its citizens against crimes and punish the criminals (§ 234); regulate and, if necessary, intervene in industrial and economic processes (§ 236); take care of public welfare in the form of education (§ 239), charitable measures (§ 239), public works (§ 245), and the founding of colonies (§ 248). More specifically, the *Polizei* must guarantee the public order, build and repair the infrastructure of roads, canals, bridges, and harbors, install

³¹ Cf. Hočevár (see above note 16), pp. 37-38, and Manfred Riedel in *Materiahen* 2, pp. 266-267 and 275, note 41. The development of the modern state and its bureaucratization in the seventeenth and eighteenth century is expressed in a number of handbooks of *Polizei-* or *Staatspolizeiwissenschaft* (i.e., the doctrine of *Verwaltung* or administration). Cf. GrI 235: "supervision and care" (*Aufsicht* and *Vorsorge*) "of the public power" regarding "general affairs and institutions of common interest." See also *Ethical Thought*, p. 283, n. 11, where Wood summarizes an article of G. C. von Unruh by stating that the "*Polizei*" in Hegel's time included "all the functions of the state that supported and regulate civil society, including public works, building regulations, fire protection, public health, and poor relief. It was not until after 1840 that the term came to be limited to the state function of maintaining peace and order."

³² Ilt 4, p. 587. Cf. Vorl (Henrich), 1819-20, p. 187: "*Polizei*" indicates "the state insofar as it relates to civil society." It is thus the penetration of the state into civil society in order to maintain the interests of justice.

³³ Ilt 4, pp. 587-588: "The government [. . .] is [. . .] a providence that concerns the external. When we think of providence, we think of the divine government as ruling external existence according to an end that is not the own immanent end of existence itself [. . .]. Likewise, the *Polizei* is a providence that concerns the external existence, which does not have this end for itself. As government, the *Polizei* has ends in a universal way [. . .]."

streetlights, regulate the market, check weights, control the prices of necessary commodities, set up a system of education, health care, and welfare for the poor, and so forth.³⁴

Corporations (§§ 249-256)

Toward the end of his analysis of civil society (§§ 230-256) Hegel continues to bridge the gap between the existing socioeconomic system and the political structure of the national community. The latter cannot flourish unless it can contain the individualism of the economic system within its boundaries. The sections on the *Polizei* (§§ 231-248) have already shown how state interference is necessary to guarantee the general well-being to which all individuals are entitled. Insofar as welfare cannot be ensured by its singular members, the community as a whole must take responsibility for it.

A public system of social security creates a bond between the state and its citizens, but this bond remains weak so long as it unites the universal will and the singular individuals without full cooperation of the latter. To be an organic whole, the community requires particular institutions that have universal as well as individual aspects. A firm union has a conceptual structure: as the condensation of a *Schluß*, it is a middle term that contains both extremes of a syllogism. Besides the immediate connection between the general *Polizei* and the multitude of individual burghers, the civil society needs institutions that represent both the common cause and the private interests (cf. *Ilt.* 4, pp. 619-620).

"Corporation" is Hegel's name for an institution that, within the limits of the civil society, unites the universal and the singular by guaranteeing a certain coincidence of private interests with the common interests of the participating individuals.³⁵ By themselves,

³⁴ Cf. *GrI* 242R; *Wa* 162, 165-166; *Ilt* 3, p. 695; 4, p. 595, and Wood's helpful remarks in *Elements*, p. 450, note a.1.

³⁵ With regard to the last part of Hegel's chapter on civil society, see Wolfgang Kersting, "Polizei und Korporation in Hegels Darstellung der bürgerlichen Gemeinschaft," in *Hegel-Jahrbuch* 1986: 373-382. Two excellent articles on Hegel's conception of corporations are G. Heiman, "The Sources and Significance of Hegel's Corporate Doctrine," in Z.A. Pelczynski (ed.), *Hegel's Political Philosophy: Problems and Perspectives* (Cambridge: Cambridge University Press, 1971), pp. 111-135 (which, besides giving a good interpretation of §§ 250-256, also shows how Hegel draws on Roman Law and develops new perspectives, especially by giving the corporations an important role in overcoming the

the corporations do not introduce the unifying dimension of the national community, but they are indirectly important for the state's unity because they bring groups of citizens together in particular unions, in which the ethical factor, lost in the egoism of universal competition, finds a limited expression (§§ 249, 251).

The *Stand* of landowners and the universal class do not need corporations because they already realize universal aspects of the nation: the farmers realize its universality in an immediate way through their ties to the soil of the country and their ancestry and their attachment to family life; the universal class realizes it through its public functions (§ 250). The industrial and commercial class, however, is paradigmatic for the privatization of the modern economy, which has "torn" the individuals "off from their familial bonds" (§ 238) and privatized their means of subsistence. If they cannot earn property and professional respect through their own work, they lose all ethical connections. Artisans, manufacturers, and merchants need an organization through which their private interests are bound together according to the various requirements of their trades. Thus emerge different associations with their own common — albeit particular — interests (§ 251). Despite their egoistic rivalry, practitioners of the same trades share general interests, which they themselves are most able to care for by deliberating and preparing decisions within appropriate corporations (§ 251). Under the supervision and control of the government (§§ 252, 253, 288), the various corporations must receive the right to regulate the professional life of their members in a relative autonomy. They must, for example, control the members' professional qualifications, moral standards and behavior, regulate the number and formation of new members, help those who, through no fault of their own, are in need of assistance (§ 252), and so forth. The goal of these associations is not only to prevent or

separation between *ius privatum* and *ius publicum*), and Michael Prosch, "The Corporation in Hegel's Interpretation of Civil Society," in Shaun Gallagher (ed.), *Hegel, History, and Interpretation* (Albany: State University of New York Press, 1997), pp. 195-207. The latter also discusses several aspects that remain controversial among Hegel scholars, especially the question of who belongs to the corporations of the second *Stand*. His conclusions seem to me justified. For historical information about the corporations, see Riedel's *Bürgerliche Gesellschaft und Staat* (Berlin: Luchterhand, 1970). See also Hočevar (see above note 16), pp. 38-40 and 91-94.

overcome the poverty of some members, but even more importantly, to oversee education (*Bildung*) and professional qualification, and to show ethical concern for common problems and seek solutions through discussion and responsible decisions. Thus, their self-government prepares them for political tasks which Hegel formulates in his treatment of the state's legislation (§ 289R). There, it will also become somewhat clearer to what extent the corporation's self-regulation includes the right to elect its own board (§ 311).

Hegel does not exclude anyone who has the appropriate qualifications of a trade from the corporation of that trade. Laborers, except totally unqualified day laborers, can be members as much as factory owners.³⁶ However, Hegel does not give specific indications about the amount of vertical and/or horizontal corporations and he often uses the name "corporation" in a rather loose sense, which encompasses townships (§ 308) and churches (§ 270R) and is difficult to distinguish from cooperatives (*Genossenschaften*).³⁷

Hegel knows that his plea for professional unions is widely perceived as a reactionary desire to restore the ancient guild system. Indeed, though it is clearer in his courses than in the *Grundlinien*, he deplores the fact that the abolition of the guilds has left a void between the state and the citizens (Wa 169). He agrees that freedom of choice with regard to jobs is a basic right and that individuals must earn their subsistence through their own labor, but he rejects the argument that such freedom is contrary to the existence of trade unions. He argues that the capitalistic *laissez aller*, *laissez faire* creates worse monopolies than the ancient guilds, and that an economy driven by the market alone is a true plague. Corporations are needed to prevent temporary overemployment and an excess of unskilled and cheap labor.³⁸

The importance of corporations does not lie merely in their guarantee of basic resources and education for their members, but also in the fact that they grant status. To become a member, one's

³⁶ Grl 252R. See Prosch (note 35, above), who, on pp. 199-202, correctly argues against Bernard Cullen (*Hegel's Social and Political Thought* [New York: St. Martin's Press, 1979], and "The Mediating Role of Estates and Corporations in Hegel's Theory of Political Representations," in Cullen [ed.], *Hegel Today*, [Aldershot: Avebury, 1988], pp. 22-41).

³⁷ Cf. Grl 251, 288, 295, 302, 308, and 309.

³⁸ Ilt 3, pp. 711-713; 4, pp. 619, 624-629.

qualifications are examined by the corporation. The recognition expressed in its approval guarantees that its members (a) indeed have a right to well-being, (b) deserve respect for their professional and moral standing, and (c) serve the public interest. To be a member of a corporation is to be publicly honorable (§ 253). Charity, too, loses its humiliating character within the corporation; it takes the form of solidarity with respect to able and honest fellow workers who are jobless due to unfortunate circumstances, but continue to be respectable colleagues (§ 253R).

Without corporate honor, people fall back on a completely isolated existence. They must then continuously prove that they are more than egoists and deserve recognition for serving the common cause. But how can they show their public dedication without an institutional basis through which their work acquires a universal meaning? (§ 253R)

Against the objection that free choice of a profession is hindered by corporative systematization, Hegel argues that no other restrictions are necessary than those demanded by the rationality of freedom itself. Corporations liberate their members from individualistic ways of thought and behavior and the sudden misfortunes of the capitalistic market. Without corporations, the working class risks poverty, loss of honor, and isolation from the common cause.

The conclusion of this analysis must be that corporations guarantee, within the limits of particular associations, personal *honor* (the realization and recognition of personality and personal rights), individual *subsistence and well-being* (the concretization of each individual's right to survival and well-being), and the *common good* insofar as this can be realized on the level of civil society (cf. also Enc BC 534). The corporation realizes the identity of its members' particular interests with the objective universality of their shared interests. Thus, it does what the state does, but within a particular class of the civil society. As the most ethical formation of this level, it can be called "the second [. . .] ethical root of the state" (§ 255). The first root is the family, while the ensemble of the corporations represent the — albeit still defective — ethical moment of civil society. If the system of needs were left to itself — i.e., if industrial capitalism, which subjects all individuals and families to the contingency of the market (§ 238), had its way —

immediate interference of the state would be the only way to bridle the atomistic tendencies of modern society; but such unmediated interference would presuppose a centralized despotism without basis in a widespread patriotism. The two main counterweights against total privatization and internal destruction of all commonality are the family, as the emotional union of its members, and the corporation, as the self-conscious and reflective union of the participants of the socioeconomic order. As "the second family" (§ 252), the corporation can guarantee concrete solidarity among the burghers; without it, the state is in constant danger of falling apart (§ 255). Freedom, personal rights, needs, work, economy, subsistence, and well-being dissolve the nation, unless they are integrated into an encompassing community. The first and the second family make such an integration possible by preparing and sharing in the ethical character of the state (§§ 255-256).

The Logic of Civil Society (§ 256R)

At the beginning (§ 189) of his treatise on civil society, Hegel characterized it as "the external state," "the state of necessity" (*Notstaat*), and "the state of the *Verstand*" (*Verstandesstaat*). Reason (*Vernunft*) can appear here only in the form of the *Verstand*. Though the elements of the concept are obvious and their systematic unity is dimly suggested, we have here "a system of ethicality lost in its extremes" (§ 184). The system of needs is indeed dominated by the logic of as yet unmediated relations that leave the terms exterior to one another: while engaging in economic, juridical, and social connections they do not constitute substantial wholes. Particularity and subjective choice reign, but the structures that unfold from those relations necessitate overarching institutions in anticipation of the political institutions of the state. Hegel's treatise on civil society is thus "the *scientific demonstration* of [the necessity of] the concept of the state" (§ 256R). Though most of sections 182-256 reveal structures of the *Verstand*, they gradually work their way toward an overcoming of the internal tensions that divide the society. Through the formation of various classes (§§ 201-207), the judiciary institutions (§§ 209-229), the *Polizei* (§§ 231-249) and the corporations (§§ 249-256), they prepare the state.

The concept of the state is called a *result* and the process that leads to it a “*scientific*” unfolding or “mediation” (§ 256R). A general acquaintance with Hegel’s logic is sufficient to see that Hegel’s procedure, if it be a rigorous one, must show that the result (*telos*) of the former development must determine the entire approach, and in this sense is (also) the “first” (*archē*) and “the true ground” (*Grund*, § 256R). The state is the first and ultimate “truth” of the entire civil society: it is the spirit that generates all social configurations of the *Verstand* as constitutive moments of its own ethical life. Family and civil society (especially its most ethical institution, the corporation, which is a second, “universal” family) are the two “roots” (§ 256) or basic components of the state. While the family represents the substantial or communitarian element, civil society unfolds the self-conscious individualism of the modern state, or — as Hegel says in a sweeping simplification — society and the family constitute the country as the union of *town* (the domain of the civil society, which here seems to be identified as the class of industry and commerce) and *countryside* (which is the natural element of the landowners, associated with the family). From the family, the state receives a nucleus of substantial cohesion; from the civil society, it assimilates “the *infinite form*” of its lawfully regulated relations between individuals (§ 256R).

CHAPTER TEN

THE STATE

While the civil society is an essential dimension of the ethical universe, it is a deficient actualization of *Sittlichkeit*. Its network of socioeconomic relations and associations fails to form a community in which "the living good" is articulated as a true totality. The concept of praxis as the coincidence of the will of all individuals (Rousseau's *volonté de tous*) with one universal will (*la volonté générale*), which is simultaneously the ground (*archē*) and end (*telos*) of the community (§ 142), is realized in the family, but the "immediacy" of this union makes it relative and deficient in several respects. The family is an emotional union, rather than a union of knowing and willing. As an intimate community, it is fundamentally different from the contractual structure characteristic of civil society and is a much closer approximation of the ethical ideal; however, it is more dependent and less durable, and therefore more vulnerable. When children grow up, they leave their parents; family members may cease loving one another; and death destroys all ties. The temporary and partial character of the familial union, and its lack of autarchy makes it completely dependent upon the larger dimension of civil society and (the) state. The state alone fulfills the concept of *Sittlichkeit*, which is the heart of Hegel's *Rechtsphilosophie*, as its definition in § 260 makes clear: the state is "the actuality of concrete freedom," the syllogistic realization of the (intelligent) will in the unity of its universal, particular, and singular aspects.

The (modern) state is the only institution in which the principle of the "universal" and "substantial" unity of the community coincides with the principle of subjectivity, according to which all individuals have the right to realize their own interests. The substance of the state is its unity as the basis for the personal rights of its members, while the members, through their behavior, constitute the state's subjectivity. They know and will their community as an end in itself, including the institutions through which it secures

its existence and cohesion. The coincidence of the state's substantial *universality* and the *individual's* subjective interests is realized through the mediation of the *particular* institutions prescribed by reason.

The concrete freedom [of the state] consists herein that the personal singularity and its particular interests not only have their complete *development* and the *recognition of their own right* for itself, but also [. . .] knowingly and willingly recognize the interest of the universal [i.e., their community] as their own *substantial spirit* and are *active* for it as for their [own] *final goal*, so that neither is the universal valid and accomplished without the particular interest, knowledge and willing, nor do the individuals live merely as private persons for their particular interests without simultaneously willing in and for the universal and consciously acting for this goal. The principle of the modern states has such tremendous strength and depth that it lets the principle of subjectivity fully accomplish itself as the *independent extreme* of personal particularity, while, at the same time, *bringing it back* to the *substantial unity* and thus preserving this unity in that principle of subjectivity itself (§ 260).

In a perfect state, the rights of the singular citizens are recognized, while the citizens, in turn, recognize the rights of the community. Substance (the universal) and subject (the singularity) are then two sides of one and the same reality. The will or freedom of the common substance coincides with the free action of its numerous subjects; however, the subjects are not free unless they participate in the life of the collective will that binds them together. To be concretely, objectively, and actually free is to keep the rationality and freedom of the state alive.

Hegel does not provide an empirical description of any European state of the early nineteenth century; rather, he elucidates the *principle* and the *idea* of the modern state. Its principle, the identity of substantial unity and individual subjectivity, became the basis of politics following the French Revolution in spite of the distorted ways in which Robespierre, Napoleon, and the post-Napoleonic rulers had concretized it. Even in 1820, only thirty years after the French Revolution, *none* of the existing states adequately represented the idea of the state; however, the true principle, "the good," had become operative at that time and would guide the further development of politics, notwithstanding temporary regressions.

Hegel's distinction between the idea and its realization is sometimes obscured by his own descriptions of the reality. When, for example, he attacks the *Sollen* of moralists and fanatics, without noting that the existing reality they decry indeed deserves criticism, the reader may forget that ideal perfection, though indeed an aspect of all essences and ideas, is never realized in a perfect way. There are, however, enough texts in which he stresses the distinction between the rational (or ideal) actuality of the reality and the merely approximative reality of its factual existence.¹ An interesting passage from Griesheim's course notes (1824-25) confirms this:

Talking about the idea of the state, one must not focus on particular states [. . .]; one must consider the idea, this God for itself. Each state, even if one declares it bad according to one's principles, even if one finds this or that defect in it, must contain all of the essential moments of the state, if the essential (*das Wesentliche*) is present in it, [i.e.,] if it is a state as such, a Christian, European state.

It is very easy to see what is defective; in youth, one begins with criticism; the difficult part is, however, to discover the affirmative that lies in an [instance of the] actuality. This substantial [core] is here the issue, though the mode of its existence may have many defects.

The state is not a pure work of art. It stands in the world and therefore [. . .] in the sphere of arbitrary choices, contingency, and error; evil intentions can disfigure it in many respects. But the ugliest person, the criminal, is always still human. Someone who is sick or crippled is still a living being; the affirmative [side], life, exists despite the defects, and the affirmative [side] is the real issue.

Human vanity is easily satisfied when it abandons itself to blaming; by blaming one is shown to be superior in willing and knowing, in possession of a higher insight than the one blamed.²

¹ Hegel's exaggerations in the Preface of the *Grundlinien* about the rationality of the existing laws must be balanced against his treatment of *Sollen* (see above, Chapter One, pp. 98-99) and the difference between the concept and its actuality in the *Logic* (see next note). Cf. also *Philosophy and Politics*, pp. 59-70.

² Ilt 4, pp. 632-633. Cf. GrI 1Z, 2R, 3R, 258Z and Ilt 3, pp. 103-104, and the commentary above in Chapter Four. To explain the difference between the concept and its reality within the idea, Hegel uses the example of a bad state: "In concrete things [. . .] there is a distinction (*Unterschied*) between the concept and its actualization. In nature and spirit, the concept has an external

The State and "the State" (§§ 257-260)

Section 260, explained above, opens a chapter entitled "*Das innere Staatsrecht*" (§§ 260-329). Nisbet and Knox translate this title as "Constitutional Law," but this is misleading. Since "*Recht*" is Hegel's name for the entire order of objectified freedom, "*Staatsrecht*" is synonymous with the state or *polis* as the totality of "right" in a very broad sense of "right." The adjective "*inner*" (interior) distinguishes §§ 260-329, where the life of the political institutions is analyzed, from the analysis of the inter-statal dimension of "right," which constitutes the short treatise entitled "*äußeres Staatsrecht*" ("exterior right of the state," §§ 330-340), that is, "right" in the form of international politics (including, but not identical with, international "law"). One way of distinguishing the two parts would be to call the first part (§§ 260-329) "(philosophy of the) State" and the second part (§§ 330-340) "(philosophy of the) Relations between States." However, Hegel reserves the title

presentation (*Darstellung*), in which its determination shows its dependence on external factors, corruptibility, and inadequacy. Something that is actual therefore shows indeed by itself what it *ought to be* (*sein soll*), but it can [. . .] also show that its actuality corresponds only inadequately with this concept, [i.e.,] that it is [a] *bad* [actualization or actuality]. While the definition must indicate the determination of the concept in an immediate property, there is no property to which one cannot oppose an instance in which—though the entire *habitus* displays the concrete *definiendum*—the characteristic property shows immaturity or atrophy. In a bad plant, a bad species of animals, a contemptible human being, a bad state, certain sides of their existence are deficient or wholly obliterated, which could otherwise be taken to be the distinctive and the essential determination for the definition [. . .]. A bad plant, animal, etc., still remains a plant, animal, etc. If the badness should be part of the definition, all essential properties would be missed by an empirical investigation because of the monstrosities that do not have those properties." For example, we would not be able to see that the protection of life and property is an essential feature of the state, because there are "despotic states and tyrannical governments" (GW 12, pp. 213-214). An empirical state, such as England, France, Italy, or Prussia, can therefore lack essential features and still realize its concept to a certain extent. It is the idea of the state, but because of its empirical inadequacy, it must still become what it is.

See also the following passage: "Reason projects an ideal of the state, its constitution, but the shape of the actuality is very different" (Hom 210). This statement is almost identical to Wa 270: "in all [states] certain irrational determinations have been maintained in positive law." See also Bernard Bourgeois, "Hegel et la déraison dans l'histoire," in Hans-Christian Lucas and Guy Planty-Bonjour (eds.), *Logik und Geschichte* (Stuttgart: Frommann-Holzboog, 1988), pp. 69-70.

"State" (*Der Staat*) for the entire third part of his book, which encompasses (1) "the interior state right," (2) "the exterior state right," and (3) "world history" (§§ 341-360). In §§ 257-258 he compounds the confusion by providing a definition of the overarching "State" that *cannot be distinguished* from the concept of "(the interior right of) State" as defined in § 260. For instance, at the end of § 258, Hegel states that "it is the highest duty" of individuals "to be members of the state," which clearly refers to the singular state and not to the political order that encompasses the entire world and its history.

The abstract expressions of §§ 257-258, likewise, correspond only to the singular state.³ The first sentence of the chapter "The State" declares: "The state is the actuality of the ethical idea" (§ 257). Though meant as a statement about the political order in its broadest sense, which encompasses all singular states, world politics, and universal history, it is in fact equivalent to the definition of the individual state in § 260: "The state is the actuality of concrete freedom." The substantiality of the common will is stressed in both sections, and the "subjectivity" of the individual persons, whose knowledge and will coincide with the universal will of their common spirit (§ 260), is represented in § 257 by "the self-consciousness of the singular" individual, whose disposition (*Gesinnung*), knowledge, volition, and action mediate between the immediate existence of the present ethos (*die Sitte*) and the common spirit that knows and wills and realizes its substantial freedom through singular individuals.

³ It is impossible to read § 258 as a description of "state" in the broadest sense of the word, as it ought to have been treated in this section, which precedes the tripartite division of "the state" in § 259. In fact, Hegel's entire book concentrates on the single state, which is defined not only in § 258 and § 260, but in many other sections as well. In Chapter Seven, I have already remarked that the concept of *Sittlichkeit* coincides with the concept of the nation state. Compare § 142 (*Sittlichkeit* is the idea of freedom") and § 145 ("freedom or the will in and for itself") with § 258R ("unity of objective and subjective freedom"), and § 260 ("the state is the actuality of concrete freedom") and § 149 ("substantial freedom") with § 257 ("substantial freedom"). Cf. also §§ 153R ("the best ethical education is the formation of a citizen within a good state"), 156 ("the ethical substance [. . .] is the actual spirit of a family and a people"), 337R ("the ethical substance, [i.e.,] the state"), 340 ("the ethical whole itself, the independence of the state"), and 349.

The “manifest” or “revealed” (*offenbar*) character of the ethical spirit in the state is expressed more clearly in § 257 than in § 260. According to the introduction to Hegel’s philosophy of spirit (Enc A 302; cf. BC 384), manifestation or revelation (*Offenbaren*) is a general characteristic of the spirit: spirit objectifies itself, giving objective existence to its own essence. The idea is objectified in (the “first”) nature; as free, however, the spirit objectifies its freedom by transforming nature into a *free* (“second”) *nature*. In a general sense, this free nature encompasses all expressions of the spirit from the soul to the highest forms of the absolute spirit. In a more specific sense, the objective existence of the spirit is “the system of right” as “the realm of actualized freedom, the world of the spirit produced out of itself” (Grl § 4). In a still more emphatic and the most proper sense, the spirit is manifest in the state, because only in the state does the spirit know and will itself as the identity of the unifying substance with the self-consciousness of the individual subjects who compose and actualize its totality.

The rational character of the state — or its conceptual structure — is summarized in the first sentence of § 258:

As actuality of the substantial *will*, having this will in the particular [P] *self-consciousness* [S], which is lifted up to universality [U], the state is the *rational* (*das Vernünftige*) in and for itself.

The next sentence is a simple consequence of the given definition, but, together with a *Zusatz* from Gans, it has scandalized many readers:

This substantial unity is [the? an?] absolute immobile end in and for itself (*Selbstzweck*), in which freedom reaches its highest right. This ultimate end has the highest right against the individuals, whose *highest duty* it is to be members of the state (§ 258).

This substantial unity is [the] absolute, unmoved end-of-itself (*Selbstzweck*). In it, freedom reaches its highest right, while this end-of-itself has the highest right against the singulars, whose *highest duty* is to be members of the state (Grl 258 Z).

This *Zusatz* is taken from the winter course of 1824-25, which I quote here from Griesheim’s notes:

The state in and for itself is the ethical whole, the actualization of freedom. It is the absolute end of reason that freedom be actual. The state is the spirit standing in the world, as realizing itself in the

world, in consciousness. The spirit realizes itself also in nature, but only as the spirit's other, as sleeping spirit [. . .]

In talking about freedom, we must not take our departure from the singularity, from singular consciousness, but instead from the *essence* [my emphasis] of self-consciousness. This essence is freedom, the individual might know it or not. This essence realizes itself as independent power (*Gewalt*), in which the singular individuals are only moments. The singular does not do anything in this [realization]; that the state is, is the course of God in the world. It is the power (*Gewalt*) of reason actualizing itself as will.

The following sentence, previously quoted, continues:

Talking about the idea of the state [. . .], we must consider the idea, this actual God for itself.⁴

Are we to take these passages to mean that the state and politics in general have replaced the God of the philosophers or the Christian religion? Has Hegel divinized the state or, supposing that he saw Prussia as the true state, has he tried to justify Prussia's absolute supremacy over all other nations?

The English translations of the apparently scandalous sentence favor such an interpretation. Knox writes: "The march of God in the world, that is what the state is" (p. 279), while Nisbet translates the same sentence as: "The state consists in the march of God in the world" (p. 279). These translations are incorrect. The puzzling sentence reads "*es ist der Gang Gottes in der Welt daß der Staat ist.*" Literally: "it is the course of God in the world that the state is." The translations suggest that the state is the only or the most true and perfect reality of God in the world, but this cannot be correct.

First, the German sentence says neither that the state *is* God, nor that it is God's course. If the state is called "*this actual God*" (*dieser wirkliche Gott*) in the last sentence of the quoted passage, the implication is that there are other Gods or other manifestations, revelations, or realizations of God.⁵

⁴ Ilt 4, p. 632; cf. GrI 258Z.

⁵ This is confirmed by a parallel text in Wa 124: "The state is the universal will, which is actual universal self-consciousness, the idea of God. Therefore the peoples have adored the universal essence of the state as a god. It is freedom in its universality and actuality; that this idea *be*, is the highest right." If a state is god, we have to deal with a plurality of gods or with a plurality of embodiments or concretizations of the divine. See also the parallel passage in *Rechtsphilosophie* 1819-20, p. 210: "The ethical spirit is therefore a state's essence, which ancient

Second, "world" (*Welt*) is used by Hegel to indicate the "second nature" or "realm" of objective spirit.⁶ This realm is neither the universe as such, nor its highest dimension. Since the state is only the perfect realization of *Sittlichkeit*, it cannot be the perfection of spirit as such.

Third, "God" is used by Hegel as a more popular name for the universal and *absolute* spirit. His system presents the universe as one great movement or course (*Gang*) in which the spirit (or "God") unfolds *all* of its possibilities (that is, logical, natural, spiritual, aesthetic, religious, and theoretical). This course begins with the most indeterminate of all determinations and ends in absolute knowledge, in which the full truth of nature, the human soul, consciousness and spirit, right, economics and politics, art, religion, and philosophy can be revealed. Because the spirit, as the origin of its all-encompassing unfolding, is both the unmoved beginning *and* the "actuality" of the universal moment, the universe can be characterized as the "course of the spirit" or the "course of God." Every moment and stage of this universal course is created, necessitated, willed, and actualized by God (or the spirit). "God's course" is the "cause" and the life of all the actualities in which the spirit manifests or reveals (*offenbart*) its creative fullness. Nature, right, state, art, religion, and so on exist *because* of the spirit's realization, unfolding, and revelation of itself. "*It is the course of God [that causes or necessitates the fact] that nature or art or religion or the state exist.*" All realities are realizations of the spirit (or God) and must therefore be understood as (specific and limited) actualizations of God, that is, as the expressions of one "actual God." Since the state is the perfect actualization of the spirit only in its '*objective*' or *worldly* form, the state actualizes, more than other kinds of right, God's course" as a course "*in the world*" (and not in nature or art or theory).

Fourth, a quotation from student notes is not a sufficient basis for attributing to Hegel the replacement of God with the state. The ensemble of passages quoted above says nothing about the supremacy of politics, but it does posit a thesis about the

peoples call their God. This spirit is [. . .] what is alive in the people, which lives in its community."

⁶ Cf. § 4 and the commentary.

relationship between the rights of individuals and the rights of their political community. Section 258 clearly emphasizes the primacy of the rights of the state as a whole *vis-à-vis* individuals' private rights. The ends of the singular citizens must be subordinated to the absolute end of their community. The word "unmoved" and the expression *Selbstzweck* (the end that is desired for the sake of itself) refer to Aristotle's "unmoved mover" who causes the movement of the cosmos by being the ultimate beloved *telos* of all things.⁷ This same reference is present in Hegel's definition of the *general* concept of *Sittlichkeit*: "the ethical character [. . .] knows the unmoved [. . .] universal as its moving end" (§ 152). As the perfect actualization of ethicality, the state is the final cause that moves all of its components by gathering their desires and free wills within its universal willing of itself. From the perspective of finality, the state is a *causa sui*. All other ends, including the personal ends of individual citizens, must be willed as subordinate moments of that ultimate end. This is the law of reason. The sentence about the course of God in the world can therefore be transformed into another Hegelian sentence quoted above: "It is [the] absolute end of reason that freedom be actual." In other words, freedom becomes fully objective in the political actuality of a well-organized state.

Section 258, however, remains puzzling insofar as it opposes the right of the state to the right of individuals: "The substantial unity" of the state, which is the absolute end and culmination of freedom, "has the highest right *against* (*gegen*, my emphasis) the singulars, whose *highest duty* it is to be members of the state." How can there be any opposition in the (idea of the true) state if the definitions given in §§ 260 and 257-258, are correct? At the core of these definitions is a perfect conceptual structure, which guarantees that the self-conscious wills of the individuals and the will of their community are in unison. Any opposition between the two is possible only in states that do not correspond to the idea, namely, all existing states. Does Hegel remind us in § 258 of the sad fact

⁷ Hegel combines here Aristotle's "unmoved" (*unbewegt*, cf. *Physics* 258b5-9) with "end-of-itself" (*Selbstzweck*, cf. *Metaphysics* 1072a35). His adoption of the physical terminology ("unmoved mover") to characterize the state's divine ultimacy (it "moves as beloved") goes well with the quasi-natural character of the ethical "world" as "second nature."

that the idea cannot be realized perfectly? If so, he makes a sudden transition here from the abstract and ideal concept of the state to the question of its empirical realization.

A more plausible interpretation may be found within the framework of the introductory definition of the state. The term “against” (*gegen*) can be understood as expressing an opposition between the community (with its rights) and the individual citizens, *insofar as* they see themselves (incorrectly) as wholly singular and private. By isolating themselves from the community, singular persons isolate and idolize *moments* of the true rights they possess. True rights always have a communitarian aspect; their private aspect relates to their communitarian aspect as singular moments of a concept relate to its universal moment. In place of “against” Hegel could have written that “the ultimate end of the state has the highest right,” which *includes* the true rights of its singular members. All rights opposed to that all-encompassing and inclusive right are anti-communitarian and therefore false. This statement is not a denial that individuals can also enjoy private rights outside of the explicitly political context — these rights can unfold in the civil society — but the realization of these private rights cannot conflict with the rights of the community as such.

However, the basis of all these explanations, namely, that the state is the only adequate actualization of *Sittlichkeit* and the culmination of the spirit as objective spirit, seems contradicted by two passages in the Introduction to the *Grundlinien*. In the Remark on § 30, Hegel distinguishes two forms of opposition between rights: a collision and a hierarchical relation. *Collision* between rights is possible within a specific domain of right, for example, in the domain of personal property: your right and my right to own one self-same thing can conflict. Conflicts can also occur between different dimensions of right, for example, between the abstract rights of property owners and the moral right to well-being of moral subjects. Yet this happens only if these dimensions are seen as competing on the same level of validity, namely, as forms of right and freedom. The conflict shows that the conflicting dimensions are not all-encompassing, but limited. As such, each limited dimension of “right” is subordinate to a higher, more encompassing right; for example, the moral rights of individuals are subordinate to the ethical rights of civil society and the state. If

dimensions of "right" differ in this way, they relate to one another in a *hierarchical* way: abstract dimensions, such as property and morality, are subordinate to the more concrete dimensions of *Sittlichkeit*, while family and civil society are subordinate elements of the state. The most concrete dimension, which is also the most complete and conceptually adequate, has the supreme right (into which the lower kinds of right are integrated). Only this highest right is valid in an absolute and unlimited (*uneingeschränkt*) sense, while all other rights are limited (*beschränkt*) and relative. Up to this point, the text of § 30R is in perfect conformity with the explanation of §§ 257-258 and 260 given above: the state has the highest right, to which the duties of its members correspond (§ 258). However, § 30R ends with the following statement: "only the right of the world spirit is the unlimitedly absolute [right]." This thesis is then confirmed in § 33, where "The State" is anticipated:

The ethical substance is [. . .] the state, as freedom, insofar as this is universal and objective in the free independence of the particular will; this actual and organic spirit (α) of a people becomes, (β) through the relation of particular peoples, (γ) in world history, actual and manifest as universal world spirit, whose right is the highest.⁸

The succession of (α) one *singular* people, (β) several *particular* peoples, and (γ) the *universal* world spirit once again suggests the well-rounded pattern of a concept. We will see, however, that the adequate actualization of ethicality is given in the first figure only. Whereas the relations between states and world history represent a generalized alternation of generation and corruption, the singular nation-state is the only reality in which the idea of ethical life finds an appropriate realization.

The thesis that *world history* would be the adequate realization of *Sittlichkeit* is plainly false, as will be demonstrated by Hegel himself in §§ 330-340. The history of states is in no way the perfect identity of substance and subject. It can therefore neither be nor "have"

⁸ Cf. also Ilt 4, pp. 157-158: "The state is the subordination of [abstract] right [. . .] Taxes are therefore no injury of property right [. . .] The right of the state is something higher than the right of an individual to his property and person. But even the right of the state is not the highest. The right of the world spirit stands above the right of the state. That right is unlimited, sacred, the most sacrosanct."

the highest form of right. Moreover, Hegel does not say that history is or has this highest right; it is the universal *spirit*, as the revelation of itself in world history, which has the supreme right. As we will see, history itself does not have the character of conceptual universality because it is a mixture of general dispersion, fatal destruction, and incessant emergence and disappearance of new realizations of "right." The spirit, however, "uses" history to reveal itself as *transcending* the horizon of politics; the dimension of the state is merely the "objective" and quasi-natural side of the *absolute* ("dimension" of the) *spirit*. If we could still use the word "right" at the "level" of the absolute — though this would conflict with Hegel's own definitions — we could argue that the spirit, as Fate or Providence, claims the highest power and "right" over the entire realm of *Sittlichkeit* and political history. "Right" would then remain the actualization of freedom, but this freedom would be essentially aesthetic, religious, and philosophical, not merely "objective" as a life in ethical mores and institutions.



To summarize what has been said about the meanings of the word "state" and to guide our reading of the third part of Hegel's philosophy of "right," the following schema may be helpful:

142-157:	<i>The Concept of Sittlichkeit</i>
	I. The Family
	II. Civil Society
257-360:	III. <i>The State</i>
257-259	Introduction: <i>The Concept of the State</i>
260-329	A. <i>Internal Right of the State</i>
260-271	Introduction: <i>The Concept of the State</i>
272-320	I. <i>Internal Constitution</i>
321-329	II. <i>Sovereignty vis-à-vis the Exterior</i>
330-340	B. External Right of States
341-360	C. World History

The italicized words highlight the central issue, which is described four times: *first*, as the concept of *Sittlichkeit* (§§ 142-157), *second*, in the general introduction to (§§ 257-259) and as the title of the entire third chapter (§§ 257-360), *third*, in the introductory sections on the state in the proper sense of the word (§§ 260-271),

and *fourth*, in the central text (§§ 272-329) from which a transition is made to the world of interrelated and conflicting states. The difference between these four descriptions lies solely in their degree of explicitness. The proper subject of Hegel's philosophy of "right" is *the individual nation-state*, all sections preceding its emergence (§§ 1-256) treat elements of it, while all developments that follow it (§§ 330-360) demonstrate that the nation-state cannot be the final figure of the unmoved spirit that moves the universe.

The State Is Not a Contract: Part One (§§ 258R and 75)

The principle of subjectivity, understood as the basis for the right of all individuals to choose their own way of life and profession, economic and political involvement, and so on, might seem obvious to most twentieth-century readers of Hegel's practical philosophy. This principle conforms to the democratic, empiricist, and historicist climate that dominates our culture. Hobbes, Locke, Hume, Mill, and other English authors are the classic proponents of this ideology, but Hegel detects it also in Rousseau and Fichte, and sometimes even in Kant.

According to Hegel, the individual's will is not confined to its private, contingent, arbitrary, particular, and singular aspects; similar to Kant's idea of autonomy, it involves the universal element that belongs to reason. As practical reason, the will is constitutively ruled by rational universality and spiritual necessity, and this ruling cannot be suppressed or overthrown by the choices of singular subjects. We do not possess our reason and will — they possess us. This truth is implicit in the principle of substantiality: practical reason, as universal will, is the "substance" (or, in the sense of Aristotle's *ousia* as *hypokeimenon*, the fundamental *Grundlage*, support, or "subject") with which singular subjects must be united in order to act rationally. The ethical substance cannot think or act unless it is differentiated and singularized in the multitude of singular subjects; however, these subjects cannot act or think *rationally* if their thoughts and choices do not express the spirit that binds them together through rational institutions, customs, and behavior. Universality and singularity, substantiality and subjectivity are interdependent elements in the constitution of

any truly free community. Where the subjectivity of the singular members is not fully honored, as was the case in premodern states, reason is not sufficiently actual; likewise, when the ground of the members' supra-individual unity — the "substance" — is denied, anarchy spreads among irrational singularities.⁹

If individuals are not bound together by some overarching unity, the only way to establish any sort of community consists in a contractual relationship. Hegel's analysis of the contract has shown that it can unite the contractors only by an association that remains dependent on the private wills of those involved. The subjects have in common only what they decide to make the common object or purpose of their originally separate (but for a particular purpose, united) wills, but they are unable to produce a will that encompasses and supports their many wills as expressions of a more originary union. In his treatise on civil society, Hegel has unfolded the contractual aspects of the modern society, showing at the same time that all forms of true commonality within it (such as social security and corporations) presuppose the intervention of the state in the social activity of the burghers.

Although the state involves diverse forms of association, its unity cannot rest on a contract; only a truly universal will (that is, a will that does not depend on, but *conditions* and *grounds* individual choices) can constitute a fundamental union.

The *Verstand* can invoke many reasons to refute contractualism (for example, a contract is fragile, easily broken, and every new citizen must decide whether to consent to it or not) but what is decisive is that a real union or communion of human individuals requires *one will* with which their singular wills agree — though they are free to realize it in particular and individual ways. If a community is not simply a self-chosen association, there must be an underlying will that does not depend on singular choices or particular parties. This impartial and unique will is not an additional will — as if it were another, heroic or divine, individual

⁹ On *substance*, see Enc A 98-101 (BC 150-152) and GW 11, pp. 394-396. A very thorough and illuminating discussion of the meaning of Hegel's thesis that the state is a "substance" whose "accidents" are its citizens (GrI 33R, 257, 258R, 337R; cf. §§ 146-147), is given by Franz Grégoire in his *Études Hégéliennes: Les points capitaux du système* (Louvain: Nauwelaerts, 1958), pp. 228-336; cf. also pp. 338-339.

or consciousness that hovers over the finite wills of the many individuals and rules them according to its arbitrary or supremely rational choices. As universal, the common will is nothing else than the unifying "element" in the realm of human praxis: the origin (*archē*) and support and "substance" (*ousia*, *hypokeimenon*, *substantia*) of the willing individuals who are its "accidents."

One must take care not to misunderstand Hegel's explanation of the relation between the spirit's universal will and the singular wills of individuals. As explained in Chapter One, neither the accidents (the individual wills) *nor the substance* (the unifying will of the spirit) can exist independently of one another. The substance *is* the totality of its accidents and the accidents *are* the various aspects of the substance's existence. Even if the accidents (i.e., the individual citizens) are shortlived and replaceable by other individuals, while the substance of the state perdures, it would disappear immediately if the multitude of its accidents died. The emphasis does not lie on the supremacy of a *higher* level over the level of individual wills, but on their pre-arbitrary unity. Precisely how such a unity can be conceived is the question Hegel tries to answer in §§ 260-329. The characterization of the state as a substance that is singularized in accidents (or as multitude of accidents that are united in one community by their belonging to one substance) is only the first step in his deduction.

Philosophy and History (§§ 258R and 31-32)

All that has been said up to this point concerns Hegel's conceptual comprehension of the state; his philosophy of history so far remains out of sight. Hegel makes a clear distinction between questions of historical genealogy and his philosophical (re)construction of the state, including the national and international institutions of "right." How states emerge and develop over time is not the focus of his *Rechtsphilosophie*. Some states might have developed around one or more powerful families; others have perhaps followed the economical pattern sketched in Plato's *Politeia* (§ 258R). If so, associative, and thus contractual, relations have played an important role in the emergence of states; however, such historical facts form only the appearance (*Erscheinung*) of the state's essence. What the state is, once it is established, i.e., its idea, is not a story

that can be told; it must be comprehended. Narratives cannot grasp its essence; only science — that is, dialectical philosophy — understands the idea as it unfolds conceptually and through history.

At the end of his general introduction (§§ 31-32), Hegel promises that he will show how “the reason of the issue” (*die Vernunft der Sache*) itself (namely, the state as the institutionalization of freedom) unfolds out of its own fundamental principle, free will (§ 31R, cf. § 1R). In the course of his work, he refers to certain historical institutions, which, more or less transformed, are integral parts of the modern state. He has warned the reader, however, that the philosophical unfolding does not run parallel to the historical development of right and politics. While it is true that the conceptual determinations of the idea necessarily generate a *Dasein*, in which they take the form of a concrete spatiotemporal configuration (*Gestaltung*), the philosophical succession of these configurations differs from their historical succession (§ 32 & R). The family, for example, is one of the oldest historical institutions. A conceptual analysis shows that the idea of the family presupposes its right to own property and to engage in contracts; but in many cultures of the past, these rights (and the idea of person-ality, which they presuppose) were not recognized. Although speculative thought shows that they are conceptual conditions of the (idea of the) family, they have been institutionalized only recently. The historical development differs from the conceptual. The latter shows that the ancient family is a defective realization of the true essence, concept, and idea of the family. The (deficient) family existed before its conceptual truth was realized.

The same is true of the state. The temporal development of political configurations shows that the identity of substance and subject, as deduced by Hegel from the concept of the state, requires history in order to be realized. It is possible, even probable, that the origination of many states was preceded by some sort of convention or association based on contractual relations, but such associations were only approximations; from a philosophical perspective, they cannot be interpreted as the origin or foundation of the state.

In § 258R, Hegel boldly formulates the difference between the historical and the conceptual development:

What is or was the *historical* origin [. . .] of each particular state, with its rights and determinations, [. . .] does not have anything to do with the idea of the state itself; with regard to scientific knowledge, which alone is here at stake, it is, as the appearance, a historical issue [. . .] The philosophical consideration has only to do with the inner [core] of all this, [with] the *thought concept*.

While history is concerned with the temporal connections between political situations, events, and institutions, philosophy focuses on historical configurations from the perspective of whether they more or less adequately actualize the essential moments of the true, i.e., complete and perfect, concept. A civil war or the anarchy of a recent period is conceptually less satisfactory than the Greek polis or the absolute monarchy of the *Ancien Régime*. Despite its many defects, pre-revolutionary France was "a great actual state," whereas the "monstrous" and "horrible" *Terreur* of Robespierre and Saint-Just can hardly be understood as a realization of the ethical idea (§ 258R). It is revealing that Hegel calls the France of Louis XVI "a great actual state," notwithstanding the fact that it lags further behind his sketch of a true state than any other after 1815. Apparently, "actuality" is not used in a perfectionist sense: even inadequate existence has some kind of actuality (and therewith its own rationality).¹⁰

The State Is Not a Contract: Part Two (§ 258R)

Following the above excursus on the relationship between philosophy and history, we must return to the question of the state's non-contractual essence. While Hegel fights this battle on

¹⁰ Cf. §§ 216 and 219 on the tension between historical and rational laws. Cf. also the following passage in Vorl (Henrich), pp. 210-211: "In which way the states have emerged, that does not here concern us at all. Whether a state developed out of patriarchal relations or through external violence and necessity, is indifferent. A state can be founded by violence and injustice, but this is indifferent for the idea. The state may be as imperfect as it wants, it still has this divine, substantial [core] that the individuals behave in it as belonging to an objective whole." One cannot emphasize enough the differences between Hegel's idea of the state and the concrete constitution of Prussia as it existed in 1820. Karl Rosenkranz already wrote: "Prussia was then not a constitutional state, it did not have a public and independent judiciary, no free press, no equality of the citizens before the law, no participation of the people in legislation and taxation—and all that was taught by Hegel as a philosophical necessity" (*Hegel als deutscher Nationalphilosoph*, Leipzig, 1870), p. 152.

two fronts, his enemies are united in their misunderstanding concerning the actuality of the idea, reason, spirit, will, and true freedom. For Hegel's debate, Jean-Jacques Rousseau represents those authors who, though correctly beginning with the concept of will, mistakenly restrict it to the singular will of human individuals. Carl Ludwig von Haller, on the other hand, stands for those who replace speculative thought with an empiricist appeal to nature and history. Information about the political discussions among Germans around 1821, provided by Losurdo, for example, makes it quite plausible that Hegel, through his polemics against Rousseau, also targets those whom we would call "progressivists" like Fries, Jahn, and their adepts among the students.¹¹ At the same time, Hegel's attacks on Haller's archconservative *Restoration of the Science of the State or Theory of the Natural-Social State* targets the king's reactionary circle — just as he ridiculed Hugo's handbook in § 4R attacking the "historical school of law," whose leader, Friedrich Carl Savigny, was an adviser to the king. In a long footnote polemicalizing against Haller (§ 258R), Hegel points out that Haller and Fries are two varieties of one fundamental misconception.

Given Rousseau's fundamental identification of free will with the singular will of a self-conscious individual, the only possibility of a true union lies for him in the simultaneity of conscious choices based on personal opinions about the advantages of a basic association. The denial of any non-arbitrary fundament yielded the *Terreur* that followed the French Revolution. By suppressing all supra-singular principles that would bind even the majority — a suppression expressed in the murder of the king — the "committee of public salvation" expressed its conviction that reason is based on individuality alone. By isolating private individuals from the universal reason present in their own wills,

¹¹ Domenico Losurdo, *Hegel und das Deutsche Erbe; Philosophie und nationale Frage zwischen Revolution und Reaktion* (Köln: Pahl-Rugenstein, 1989), see especially pp. 63-64. When Hegel mentions "the false theories that have been developed in the trace of Rousseau," he indeed must have thought of Jakob Friedrich Fries, whom he harshly criticizes in the Preface (see *Philosophy and Politics*, pp. 17-20, 24-28, and 70-78). The full title of C. L. von Haller's book is *Restauration der Staats-Wissenschaft oder Theorie des natürlich-geselligen Zustands der Chimäre des künstlich-bürgerlichen entgegengesetzt* (Winterthur, 1816-1834), six volumes. (*Restoration of the science of the State or Theory of the natural-social state, in contrast with the Chimera of the artificial-bourgeois state.*)

the abstract thought of the revolutionaries destroyed the "absolute" and "divine" "majesty" and "authority" of that which alone guarantees the cohesion of many wills within a community.

Hegel's emphatic condemnation of political contractualism¹² cannot be understood without at least some sympathy for his veneration of Reason. Hegel agrees with Kant and other *Aufklärer* that rationality, interpreted as universality and ideality, is the central attribute of God, and that a breach with reason is the fundamental form of "sin against the spirit." His dialectical interpretation of Spirit differs from Kant's and Fichte's conceptions, but his faith in Reason is equally unshakable; it replaces the Christian faith by *completely* conceptualizing God's creative and redemptive characteristics. The praxis of this faith is rational in all its aspects; it "leads a universal life" (*ein allgemeines Leben führen*), as Hegel says. Such a life is not possible, however, unless one is united with the spiritual substance to which all individual subjects owe their rationality.

Although Hegel interprets the French Revolution as a triumph of reason and freedom,¹³ he condemns the *Terreur* as "horrible" and "monstrous" (§ 258R), because its idolization of singularity, in the form of private wills, destroyed the divine element of the universal substance, thereby causing a loss of rationality in the very subjects that proclaimed themselves autonomous and sovereign. Denial of the substance yields the tyranny of arbitrary decisions driven by personal pleasures and frivolous majorities. Whoever is able to seduce people with money, marketing, false promises, fashions, or power can turn the good of the community into the profit of the handiest. The common good then becomes a senseless expression, because the state is replaced by the competition of arbitrary individuals, thus falling back to the level of civil society. If this becomes the basic institution, personal survival, property, safety, and wealth depend upon negotiation among individuals and associations. "My country" is then the name for an economic unit, and the government itself is transformed into one party

¹² See also Grl 29R, 75R, and 100; and Siep in *Anerkennung als Prinzip der praktischen Philosophie: Untersuchungen zu Hegels Jenaer Philosophie des Geistes* (München: Alber, 1979).

¹³ *Weltgeschichte*, volume 4, pp. 920-932.

among other rivaling parties of the society. The *appearance* of the political *idea* is then taken as the *essence*, instead of being rational, people fall into the vulgar empiricism of historical contingency.

Such a situation is reminiscent of the pre-revolutionary states where many rights were the privilege of a small group. If the community as such has no universal will, and therefore cannot be the subject of rights, there will be no concern about the right of "the common good," even if the abstract rights of each individual to property and voting are recognized. The only remaining hope is then that some individuals will be charitable despite their natural greed.

Hegel's opposition to an entirely privatized state never wavers: there is no state if there is no union, and union presupposes one universal will. The political unity cannot consist in any network of external relations among distinct monads (though their consent and association is a necessary moment of the state's historical appearance). If a state does not have one will, and if the will does not have a universal (i.e., non-monadic) moment, it is only the semblance of a state. In fact, civil war and anarchy have then already begun. *Objective spirit is a substance* that is differentiated in multiple subjects, *not merely a mentality that emerges from agreements or conventions*. Before individual citizens form opinions or make choices, they are already united and educated by a will whose objectivity is rational *in itself*. The state is not a mere product of individual cooperation; citizens are born as members of their state.¹⁴ How and to what extent they can change their citizenship is a question not treated in Hegel's *Rechtsphilosophie*, but one thing is certain: according to Hegel, the state is not generated by the consensus of its members; although their consent is required because their action would not be free if they opposed the will of their community, it does not found their unity; the community *precedes* all private choices and decisions (cf. also § 75).

¹⁴ Notice the opposition Hegel sets up between the will as "rational in and for itself" and the "merely common" (*gemeinschaftliche*) will that emerges from the singular will *as conscious*: "[...] nicht als dasan und für sich Vernünftige des Willens, sondern nur als das *Gemeinschaftliche*, das aus diesem einzelnen Willen *als bewußten* hervorgehe" (§ 258R, Hegel's emphasis).

Against Historicism (§ 258 R and note)

The violence with which Hegel attacks Haller's plea for a restoration of the pre-revolutionary political and religious order can be surmised from the context in which Hegel wrote. Four volumes of Haller's book had been published from 1816 to 1820. Hegel read at least parts of it and wrote extensive summaries on them.¹⁵

Carl Ludwig von Haller (1768-1854) belonged to one of the patrician families in Bern, where Hegel, from 1793 to 1795, had been a private tutor for some families and had criticized their politics. In 1820, the year in which Hegel's book appeared, Haller published a letter in French in which he announced his conversion to Catholicism. As a well-known and active leader of the Restoration, Haller defended the return to a kind of feudal paternalism in which the king would run the state as a private corporation. In addition, Hegel's quotations of Haller demonstrate that his philosophical skills were very limited. The combination of these features might explain Hegel's anger, but Haller was by himself not important enough to justify a lengthy critique. It is probable that Hegel wished to attack the entire restorative movement, including the politics of the Prussian king, Friedrich Wilhelm IV and those surrounding the crown prince. Instead of attacking the powers that be, Hegel went after an easier target — the influential patrician from Switzerland.¹⁶

While Haller's work can be easily ridiculed by quoting his most outrageous passages, such a critique is not philosophically rewarding. Haller appeals to God and nature without clarifying the difference between the two. His conception of nature is extremely crude: "nature" is the "natural" or habitual way in which things, animals, and humans behave. The distinction between nature and history consequently fades away. One example is sufficient to show

¹⁵ *Berliner Schriften*, pp. 678-684. Sarcastic remarks are interspersed throughout the notes.

¹⁶ See Walter Jaeschke's well-informed article "Die Vernünftigkeit des Gesetzes: Hegel und die Restauration im Streit um Zivilrecht und Verfassungsrecht," in *Verfassungsgeschichte*, pp. 221-256. Jaeschke shows how Hegel's thought relates not only to Haller's political theory, but also to Savigny's conception of constitutional law and resistance to codification. He points out that several passages of § 211R and the footnote to § 258R target Savigny, although Hegel nowhere mentions his name in the *Grundlinien*.

to what kind of theses such an approach leads: God, or Nature, "with admirable wisdom," has ordered that vultures eat lambs and that powerful people govern the weak. The conclusion is that we must trust in nature's course without interrupting it with egalitarian laws and rights. Haller shuns the idea that the king should have duties and that all citizens should have the same procedural rights; he sees taxation as robbery and disapproves not only of the new Prussian Legal Code but of codification as such. On the latter two points, Hegel can place Haller within the historical school of Hugo and Savigny, but then, without much ado, he groups all conservatives together with the "progressive" and "democratic" forces, which he attacks in the Preface, stating that their shibboleth is *hatred of the law*.¹⁷

From the perspective of his own faith in reason, Hegel's response to Haller's self-congratulation about the agreement of his book with "God's own Word" is understandable, though somewhat cruel:

Out of religiosity, Mr. Von Haller should rather have deplored as the severest punishment of God (for this is the hardest thing that can happen to human beings) that he has strayed so far away from thinking and rationality . . . that absurdity itself in his mind has replaced the Word of God.¹⁸

State-Family-Civil Society (§§ 261-265)

Before turning to the components that make the state a political unity, Hegel focuses on the relations between the *state* and the institutions analyzed in earlier chapters: the *family*, of which the non-contractual basis has been highlighted, and the *civil society*, in which the contractual structure finds its full development. As

¹⁷ Compare the following two passages: "Hatred of the *law*, [i.e.,] of *lawfully* determined *right*, is the *shibboleth* through which fanaticism, debility and the hypocrisy of good intentions are revealed and make infallibly known what they are [. . .]" (§ 258R, note) and p. 10 of the Preface: "But the distinctive mark that it carries on its brow is hatred of the law [. . .] Hence law, as I have remarked somewhere in the course of this textbook, is *par excellence* the shibboleth that makes the false friends and comrades of the so-called people take their leave."

¹⁸ End of GrI 258R, note. For more on Haller in this context, see Jaeschke (note 16), Losurdo (note 11), and Lionel Ponton, "L'opposition de Hegel au conservatisme de Charles-Louis de Haller," in *Laval théologique et philosophique* 51 (1995): pp. 323-324.

subordinate dimensions within the state they allow the individual citizens to enjoy a free space for their private interests (§§ 261, 264, cf. 184-185R). The state recognizes the individuals' personal rights and integrates the free play of their dealings into the overall realization of the community's universal good. The citizens recognize the universal will as the substantial element that binds them together and enables them to actualize the public good. Viewed from the perspective of singular subjects, the demands of the state appear as a burden that comes from above. In this respect, the public institutions of the state form an "external necessity" to which the institutions of private rights and goods are subordinated. From the viewpoint of one who comprehends the essence of this appearance, however, the state is the actuality of its citizens' most essential desire and will: it is only through the citizens' political community that their freedom and all the interests in which freedom must unfold are realized. In truth, the state is the "immanent end" of the individuals; it guarantees their freedom and well-being by reconciling their particular ends with the particular ends in which the public good is differentiated. For example, citizens desire freedom and protection, but these are impossible if the state cannot defend its independent existence against actual or potential enemies. The state works for the life and freedom of its members, but in exchange the citizens are required to dedicate themselves to the life and freedom of the state. In a critical situation this duty may involve military service and all the travails of war. In this way, the state realizes the characteristic structure of *Sittlichkeit*, as formulated in § 155: the citizens have rights vis-à-vis the state insofar as they have duties, and the same is true of the state in its relations to its citizens (§ 261). This reciprocity of rights and duties does not lead us back to a contractual conception of the state, however. The reciprocity is not founded on choices; instead, it is the consequence of a union that precedes all *Willkür*.¹⁹

¹⁹ Cf. § 155, 261R. For the relation between civil society and state, see Henning Ottmann, "Bürgerliche Gesellschaft und Staat bei Hegel: Überlegungen zur Logik ihrer Vermittlung," in *Hegel-Jahrbuch* 1986: 339-347; Jean-François Kervégan, "Hegel et l'état de droit," in *Archives de Philosophie* 50 (1987): 55-94; and Emil Angehrn, "Die Ambivalenz der Moderne: Staat und Gesellschaft in Hegels Rechtsphilosophie," in *Hegel-Jahrbuch* 1988: 170-180.

The coincidence of the state's universal will with the singular wills of its citizens and the contentment that naturally issues from it presuppose a perfect state — an ideal that has not yet been realized. Complete reconciliation is realized only if all the wills involved behave rationally. When the state or a considerable number of citizens behave irrationally, substance and subject do not coincide, duties and rights are unjustly distributed, and rational people will remain unsatisfied. The post-revolutionary state has reached the stage where, in principle, a harmonious relationship between public and private life is possible. Although many adjustments are still necessary, especially in Prussia at the time of Hegel's writing, an adequate basis for such a relationship emerges from a long history of attempts to rationalize the play of politics. Finally, the rights of all citizens to participate in the public affairs of their community, while at the same time realizing their own fulfillment, is recognized, at least by the best thinkers of the time.

Citizens actualize their freedom on several levels: as *members of a family* they participate in the freedom, property, and social exchanges of small communities united in love; as *burghers* who engage in the commerce of civil society they realize their personal freedom within the institutional framework of a rationally-ordered economy; as *citizens* of the state they participate in the universal character of public affairs. Whereas the family and civil society offer a free space for personal initiatives, the framework of the state invites their input in the political activities of the overall community (§ 262, cf. §§ 185R and 190R). The key to this reconciliation is that, in a good state, the rational differentiation of the universal will coincides with the particular interests of the citizens, if these indeed are rational. The will of the state and the individual's will are two moments of one and the same will (the will of the spirit), and their unity lies in the particular configurations that both wills desire *if* they follow the rational necessity of their essence. In a completely rational state the citizens are devoted to the state's purposes *as their own* individual purposes *and vice versa* (§ 261R).

That Hegel presents us with an ideal and not an empirical description, is obvious from the fact that his theses presuppose the rational character of *all* elements involved. This does not contradict his critique of an unrealistic *Sollen*, however, because he is

convinced that the rational principles on which he builds have become operative and will sooner or later succeed in realizing their consequences. Was Hegel right to believe that Reason in the end would triumph? While this is difficult to accept in our own century, it does not make his theory incoherent. Hegel never claimed that the situation during his time was completely rational; as we have already seen, he even argues that evil and disaster are inevitable elements of the universe and that the history of the world cannot overcome all defects. But if imperfection and evil are everywhere, we must possess an idea of concrete or "actual" perfection, if only to detect them.

I will return later to the relations between civil society, family, and the state. For now, it may suffice to emphasize that all the institutions in which the state is particularized — familial, socio-economic, legal, and political — compose a single network of mediation through which citizens can realize their own freedom and well-being and those of the entire community simultaneously. Without the objective necessity of rational institutionalization, neither an individual life nor the life of the nation can be properly human. The institutions of the family and the civil society represent *particular* moments of the national community; they belong to its "*constitution (Verfassung) in the particular*" (§ 265). The universal moment is concealed in them, but manifest in a state that integrates them as constitutive "spheres" (§§ 263-265). Because they channel the free play of singular citizens, they enable individuals to feel at home in the state, notwithstanding the political demands. Therefore, family and civil society form "the solid basis of the state" and "the foundation of public freedom" (§ 265). The *political* constitution (*Verfassung*) of the state (cf. §§ 267 and 271) institutionalizes the *universal* aspect of freedom, for which the family and civil society are a necessary but subordinate support (§§ 265-266).

Constitution and Political Disposition (§§ 266-270)

Having determined the relations between the state and its components, i.e., family and civil society, Hegel returns to the concept of the state defined in § 260. The state — also called "the political state" (§ 267) to emphasize its difference from the civil society,

which he had called “the external state” (*äußere Staat*) or *Not- und Verstandesstaat* (§ 183) — is the objective actuality of the idea as free spirit; its substance is the universal will that wills its own encompassing freedom through the citizens who enact their individual freedom by dedication to the freedom of their community (§ 266).

The political actualization of this idea has both an objective and a subjective aspect. The former consists in the organization of the state as a totality of institutions, whereas the latter is the political disposition, mindset, or mentality (*Gesinnung*) of the citizens (§ 267). Objectively, “the political state” is an organization (§§ 267 and 270); subjectively, it is the collective attitude of the citizens toward their union (§ 268 ff.).

The word *Gesinnung* is difficult to translate; “disposition” is too generic to capture the combination of attitude, mentality, and conviction expressed in it. The appropriate political disposition within a rational state is primarily trust (*Zutrauen*): well-disposed citizens will what the state wills because they are confident that their own true freedom and interests are contained in the state’s substantial (i.e., universal, but particularized) interests. Citizens feel at home in their state when they are convinced that the state’s endeavors are not alien to their own (§ 268). Education and reflection can transform this basic trust into justified insight, but a naïve consciousness of the free will’s radical unity in its communitarian and individual realizations is sufficient for a positive disposition with regard to the state’s politics.

How does such a *Gesinnung* emerge? Hegel insists that it cannot precede the existence of a (more or less) rational state. Isolated individuals or parties cannot discover on their own how a state should be and how they themselves should behave in it. One must live within objective institutions to learn what is good public behavior. Purely subjective opinions provide no certainty that they are true, and arbitrary decisions do not create trustworthy norms. Politically correct knowledge and action is the result of education in institutions such as the family, the *Stände*, and the corporations; there we learn how to behave according to the laws and mores of the existing community. The right disposition is thus — at least in part — a result of the historical situation in which we are born and educated (§ 268). We cannot rely on subjective ideals to establish

or transform a state. To be in agreement with the rational demands of true freedom, our disposition must be based on "its true ground": the "objective reality" of a rational state (§ 268R).

A correct disposition is primarily a gift that must be accepted. Once established, it confirms and strengthens the existing order, thus maintaining it for future generations so that the state can further develop its rational structure and action in history. Education develops the citizens' solidarity with the state's historically-grown wisdom. The political disposition does not forbid them from critically evaluating the existing order or proposing institutional changes — this is precisely what Hegel does — but it protects against the arrogance of wanting to begin world history all over again. Section 268, along with the Remark, should be read in connection with Hegel's diatribe against the subjectivism characterized and attacked in the Preface. "Heart, feelings, and enthusiasm" cannot by themselves guarantee the truth of our emotions; arrogance turns them against the wisdom of ages, thus making us unable to practice philosophy. "Since philosophy is the *exploration of the rational*, it is for this very reason the *apprehension of the present* and *the actual*, not the erection of a *beyond*, supposed to exist God knows where [...]." ²⁰

In many places, even in his chapter on morality, Hegel seems to exaggerate his anti-moralistic stance in denouncing subjective claims that are not clearly tied to objective duties. A good political *Gesinnung* realizes the ideal attitude of a citizen who pursues his private purposes as the singularization of the ethical (i.e., concretely universal) good of the community. Moral conscience (*Gewissen*), whose formal structure was analyzed in §§ 136-140, can now be understood as the (subjective) form of a true and good content: "true conscience is the disposition to will that which is good *in and for itself*"; concrete morality is a life in agreement with the organization of political freedom (§ 137 & R). Moral wishes cannot be opposed to the good of the state; even less can the rights of the political community be subordinated to judgments of morality (which would lose all validity in opposing itself to the political realization of its formal demands). As long as *Gewissen*, *Gesinnung*,

²⁰ Sections eight and twelve of the Preface, pp. 8 and 14.

and *Moral* are taken in their abstract, only formal sense, their demands cannot be preferred over the political reality. They themselves demand a political concretization. Since such a concretization also depends on historical circumstances and social obstacles, the political reality will often be deficient, but moral condemnations are too cheap. "General thoughts" do not count against the "concrete existence" of politics, if this indeed realizes freedom to a certain degree. A good moral attitude is not hostile to politics, but ethical, i.e., maintaining solidarity with the state in its struggle for progress in freedom and common well-being (§ 337R).

In the *Grundlinien*, Hegel calls the good political disposition "patriotism" (§ 268), but in his course of 1817-18 he distinguishes between a "mass (*massenhaft*) patriotism," which he criticizes for neglecting the differences between various associations and individuals, and a more educated or civilized patriotism, which takes those differences into account (Wa 184-186). It is essential for Hegel's political theory that the state is articulated in different branches, associations, and corporations, each of which not only has its own objective organization, but also a specific mentality. If patriotism were only a homogeneous form of general solidarity, the state would be opposed in an unmediated way to the atomistic multitude of singular citizens. The dimension of particularization, which mediates between the two, would be absent, thereby creating dangerous tensions. To recommend an undifferentiated adherence to the state as a whole would be a fragile panacea against the individuals' attempts to withdraw into the privacy of their singularity. Therefore, the general disposition must be differentiated in more specific mentalities according to "the different sides of the state's organism" (§ 269). Hegel refers here in the first place to the various *Stände* and the corporations whose social functions he has explained in his treatment of civil society, while their political aspects will be shown when he unfolds the constitution of the state (§§ 273 ff.). As active members of such associations, citizens mediate between the laws and decrees of the state, on the one hand, and their personal interests, on the other. The various mindsets that are thereby developed constitute the subjective aspect of the objective differentiation of the overall community into particular institutions. Thus the moral element of *Sittlichkeit* becomes concrete in the characteristic dispositions of,

for example, farmers, merchants, leaders of industry, laborers, professors, and civil servants.²¹

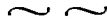
A massive mobilization of the entire population might be appropriate and necessary when the state's existence or independence is at stake, but Hegel warns that patriotism should not be restricted to times of war or other extraordinary situations (§ 268R). Heroic sacrifices can only emerge from a situation in which identification with the state as such has become common, but the essence of patriotism lies in the awareness that public and private interests are inseparable in everyday life. Such a disposition does not have the glamour of exceptional sacrifices, but it is more fundamental and stable. Many people prefer magnanimity over the simplicity of rights and duties; they are tempted by heroic forms of patriotism while excusing themselves from fulfilling the more humble demands of ordinary citizenship. Hegel uses here his distinction between two meanings of "virtue" mentioned in the introductory considerations on *Sittlichkeit* (§ 150 R; cf. above): consistent honesty (*Rechtschaffenheit*) is more "substantial" than exceptional generosity.

In his courses, Hegel stresses that a basic form of trust and patriotism is normally realized even by citizens who harshly complain about the state to which they belong. Since at least some degree of rationality is realized in all states, it is rare that its members reject the community to which they owe their survival and education.

Even when people reason very much about their time [and] their state, they stand completely in it; it is their soil. If it were taken away, they would fall into a void. They have thus more trust than they themselves and others believe. [...] If destruction began, they would do whatever they could to stop it; for they are children of their time [and] their state [...] Everybody is more patriotic than he thinks (Ilt 4, pp. 642-643).

²¹ Three excellent studies in which the mediating role of the political *Gesinnung* is clarified are Ludwig Siep's "'Gesinnung' und 'Verfassung': Bemerkungen zu einem nicht nur Hegelschen Problem," in *Siep, Prakt. Phil.*, pp. 270-284; Jean-François Kervégan, "Les conditions de la subjectivité politique: Incidences du concept hégélien de *politische Gesinnung*," in *Les Etudes Philosophique* (1988): 99-111; and Wolfgang Schild, "Sittlichkeit als politische Gesinnung des Staatszutrauens," in *Hegel-Jahrbuch* 1988: 158-169.

Hegel will later return to the question of the political disposition in his treatment of the state's external relations. At that point, the more exceptional aspects of patriotism will come to the fore (§§ 324-328). In the meantime, he concentrates on the "objective" or constitutional aspects of the state, showing that it has an organic structure, comparable to that of a living being (§§ 269-323).



The articulations of the political organism²² are the various "powers" (*Gewalten*) whose activities maintain and reproduce the life of the community (§ 269). They are the *legislative* power (§§ 298-320), the *executive* power (§§ 287-297), and the *monarchic* power (§§ 275-286). Together (§§ 272-320), they constitute the state's "organic life in relation to itself" (§ 272), while its relations to other states has consequences for its own organization and the duties of its citizens (§§ 321-329). The division, introduced in § 271, between (I) "The Inner Constitution for Itself" (§§ 272-230) and (II) "Sovereignty Against the Exterior" (§§ 321-329) as the two parts of A. "The *Interior* Right" of the State (§§ 260-329), is confusing: the second part (II) must be distinguished from B. "The *External* Right of the State(s)" (§ 330 ff.) because "The Sovereignty against the Exterior" covers elements that belong as much to the state's inner constitution as to its relations with other states. As we will see, sections 321-329 must be understood as a transition from

²² As "political state" (§ 273), the state is contrasted with the civil society as "external state" or "state of need." For the meanings and the significance of Hegel's use of the predicate "politisch," see Claudio Cesa, "Sui significati di 'politica' di Hegel: Notazioni terminologiche," in *Studi Senesi* 37 (1988), suppl. 1: 464-484, and "La lezione politica di Hegel," in Luigi Bonanate and Michelangelo Bovero (eds.), *Per una teoria generale della politica* (Firenze: Passigli, 1986), pp. 83-106. Hegel insists on the "organic" character of the state and draws parallels with the animal organism, which he explains in the last part of his philosophy of nature (Enc A 273-298; BC 350-386). See, e.g., Wa 173, 176, and 180-182; Ilt 3, p. 741; and *Sieph, Prakt. Phil.*, pp. 256-262. A good article on the organic character of the state is Michael Wolff, "Hegels staats-theoretischer Organismus: Zum Begriff und zur Methode der Hegelschen 'Staatswissenschaft,'" in *Hegel-Studien* 19 (1984): 147-178. See also Ahlrich Meyer, "Mechanische und organische Metaphorik politischer Philosophie," in *Archiv für Begriffsgeschichte* 13 (1969): 128-199, where the mechanic and organic traditions in modern political philosophy are compared on the basis of the work of Hobbes, Rousseau, Fichte, Schelling, Hegel (p. 159), Holbach, Condillac, Smith, Montesquieu, Marx, and others.

the individual state to the international order. The following table gives an overview of the articulations summed up in the preceding lines:

257-360	THE STATE
257-259	Introduction
260-329	A. <i>The Interior Right of the State</i> [the individual state]
260	- Introduction
261-265	- Relations of the State to the Family and Civil Society
266-270	- Concept of the State
271	- Division
272-320	I. <i>The Internal Constitution</i> [of the State] <i>For Itself</i>
275-286	a) The Monarchical Power
287-297	b) The Executive Power
298-319	c) The Legislative Power
321-329	II. <i>The Sovereignty</i> [of the State] <i>Against the Exterior</i>
330-340	B. <i>The Exterior Right of the State</i> [Relations between individual states]

Before developing the constitution of the state (§ 272 ff.), Hegel provides a summary of his introduction (§§ 260-269) in § 270. The state is the objective actuality of the spirit insofar as the spirit is the substantial will that simultaneously realizes the *universal* interests of the community and its *particular* interests, which coincide with the particular interests of the *individuals*. This substance necessarily differentiates itself in three mutually inclusive and cooperating powers. As intelligent and willing substance, the spirit must actualize itself in knowledge and action: the state knows and wills itself in and through the subjectivity of its citizens. Through the education they receive within the state, their consciousness develops into knowledge of the state as the objective actualization and guarantor of their own freedom. This knowledge then guides the *particular* practices through which they realize the coincidence of the *universal* and their own *singular* will.

Politics and Religion (§ 270R)

One must ask why Hegel added an exceptionally long remark on the relationship between politics and religion to § 270. The thesis that the spiritual substance wills and knows itself in the state and the names that seem to divinize the state (see above regarding § 258 & Z) are apt to alert the reader to the question of whether politics has replaced religion or, to put it in Hegel's terms, whether the objective spirit still needs a transition to absolute spirit. This might have prompted Hegel to insert some remarks about the relationship between the self-affirmation and self-knowledge of the objective spirit and the absolute self-knowledge of the spirit in religion (and philosophy, although the latter question is not treated in § 270R). Since the state is the highest *objective* realization of the spirit, its self-knowledge cannot compete with the *absolute* insights of philosophy or the representations of religion, but neither can there be any opposition or unbridgeable gap between the state, on the one hand, and religion or philosophy, on the other. Hegel affirms the fundamental unity of all forms of true self-knowledge, but the difference between the levels to which they belong differentiates their proper character. Political knowledge is an element of willing and praxis, not pure theory or belief, but practical and theoretical knowledge are for Hegel radically identical insofar as both are expressions of one and the same fundamental logic. Religion and true philosophy are required for a correct self-consciousness of the state. What this means concretely remains to be seen. Hegel provides a series of hints in § 270R, but for a thorough treatment one needs to combine these with more systematic considerations in other works. I will return later to the relations between right, morality, politics, and religion.²³

²³ Besides § 270R, the *Grundlinien* contains very little about the relationship between religion and "right" (including right, morality, the family, civil society, politics, and history). The general question of the relations between the spirit's objectivity and the actualization of its absoluteness in art, religion, and philosophy is complicated and controversial. It is not the purpose of the present interpretation to entirely solve this question, however. For further discussion of this issue, see Chapter Thirteen and my contributions in "Religion et politique dans la philosophie de Hegel," in Guy Planty-Bonjour (ed.), *Hegel et la religion* (Paris: Presses Universitaires de France, 1982), pp. 37-76; *Selbsterkenntnis*, pp. 58-78; *Hegels prakt. Philo.*, pp. 346-358; "La fine dello spirito oggettivo nello spirito assoluto secondo l'*Encyclopedia delle scienze filosofiche* di Hegel," in Franco Bianco

Discussions About Constitutional Law (§ 271 ff.)

Hegel's conception of the state's constitution has attracted an enormous amount of intellectual and emotional attention. Many excellent studies have focused on the transformation of his position from his years in Tübingen and Bern to his lectures and writings in Berlin; others have begun to clarify to what extent Hegel's positions can be understood as reactions to the German, French, and English discussions on constitutional law from Rousseau and Kant to Sieyès and Benjamin Constant. Thanks to all these studies, we now have a more concrete idea of the political and ideological context in which Hegel wrote his *Grundlinien*, although several historical and genetical questions still demand further investigation. Since my commentary concentrates on Hegel's text as a philosophical work that claims to prove its theory of rational right, I am primarily interested in the structure of Hegel's argument, not whether his position is progressive or conservative, liberal or reactionary. If Hegel's logic inevitably leads to a position that in either his or our time should be condemned, there may be something wrong with his logic, our evaluation of it, or both. Since the *Grundlinien* is not a sacrosanct revelation, anybody is free to dissent from it; even anachronistic indignation, though rather unscholarly, is relatively harmless. It would, however, be a mistake to expect Hegel to agree with pre- or post-Hegelian preferences if such agreement would not accord with the logic of his philosophy.²⁴

and Livio Sichirollo (eds.), *Logica e Storia: Scritti in onore di Leo Lugurini* (Milano: Angeli, 1992), pp. 105-122.

²⁴ In addition to the general studies of Hegel's entire *Rechtsphilosophie* listed on pp. 50-52 of the Introduction, in which the state often receives the most extensive treatment, many more studies have been published on Hegel's political philosophy. An extensive bibliography (26 pages) is presented in the valuable volume, edited by Hans-Christian Lucas and Otto Pöggeler, *Hegels Rechtsphilosophie im Zusammenhang der europäischen Verfassungsgeschichte* (Stuttgart: Frommann-Holzboog, 1986), pp. 511-536, which is a collection of excellent articles by German, French, English, and other Hegel scholars of note. I will cite below several other publications that deserve recommendation within the context of specific issues. Here I will only mention some that have a broader scope: Bernard Bourgeois, *La pensée politique de Hegel* (Paris: Presses Universitaires de France, 1969); Remo Bodei, "Filosofia e politica nello Hegel berlinese," in *Incidenza*, pp. 309-338; Z.A. Pelczynski, "The Hegelian conception of the state," in Z.A. Pelczynski (ed.), *Hegel's Political Philosophy: Problems and Perspectives* (Cambridge: Cambridge University Press, 1971), pp. 1-29; Otto Pöggeler,

Constitution (§§ 271-273)

The basic principle of Hegel's philosophy of the state is that it must actualize and reveal reason. If the state's constitution is good insofar as it is rational, it must possess the structure of the concept. As such, it forms a totality whose moments, "the powers" (*die Gewalten*), have their own subordinate conceptual structure. All the elements involved in this totality, which is a concept of concepts, mutually presuppose and maintain one another, forming one total (or universal) individual. The state is the community's (*universal*) will, which, through *particularization*, gathers all citizens' wills into the unity of its encompassing *singularity*; it is the idea of freedom as a hierarchical institution of institutions (§ 272). The *universal* aspect of the state is expressed in *legislation*; the governing or *executive* power (*Regierungsgewalt*) applies the universal laws to the *particular* dimensions of the state and to individual cases; the moment of *singularity*, which unifies the state and opposes it to other states, is realized in the *monarchic* power (*fürstliche Gewalt*). The latter is not only the foundation and pinnacle of the state, but also the encompassing power, without which the state could not make decisions or act. The cooperation of the legislative, executive and monarchic powers constitutes the active life of the state. This entire structure is what Hegel calls "the constitutional monarchy" (§ 273).

A few remarks are necessary to justify this division of powers adopted by Hegel. As we have already noticed in the preceding chapter, the *judiciary* is not located within the political constitution. The reason for this is that Hegel, in the name of the principle of subjectivity, wants to give as much autonomy to the civil society as possible. At the same time, however, he stresses that the judiciary, under the supervision of the government, functions as a bridge between the state and civil society.

Another aspect of the constitution that requires clarification concerns the inseparability of the powers: as mutually inclusive elements of one indivisible community, they cannot act independently from one another. For example, the king cannot act

independently of the executive and legislative powers; *together* they establish laws and deliberate about the grave matters that impact the life of the entire population. If the various powers were isolated from one another, the state would be divided into separate parts, which would lead to civil war. Hegel's resistance to all partition implies that he rejects any conception that sees the state as a system of checks and balances. The structure he proposes does not preclude tensions and compromises between the constitutive institutions, but these always remain subordinate to their common goal. To guarantee the overall unity of all the powers and institutions, they are held together by the power of the monarch.

Hegel's "organic" conception of the state is clarified in § 272R. Here, Hegel distances himself from the prevailing "babble" (*Geschwätz*) about *Freedom, Reason, Rights, and Constitution* — four code words employed by the liberals of his time. As in the Preface, Hegel wants to separate his political views from the ideas of those "babblers." However, before arguing that every state should possess a rational constitution, Hegel takes certain precautions because of the precarious situation of contemporary politics. The very conservative king of Prussia had made it clear that he would not fulfill his promise to grant a constitution to his country; at the same time, the restorative movement had become stronger, while the more liberal reform party, led by prime minister Hardenberg and minister Altenstein, was losing steam.²⁵ Hegel's position implied a condemnation of Prussia as an irrational and unfree nation, but he could not state this overtly. In his desire to save the quintessence of the legal and constitutional revolutions achieved after the French Revolution and Napoleon, he goes so far as to declare that the "babblers" have no right to talk about politics, because only true philosophy is able to clarify its basic questions.

²⁵ Hegel sympathized with the politics of Hardenberg and Altenstein against the conservatives (including the king). For the "battle about the constitution" (*Verfassungstreit*) that was taking place at that time, and Hegel's reactions to it, see Hans-Christian Lucas, "'Wer hat die Verfassung zu machen, das Volk oder wer anders?' Zu Hegels Verständnis der konstitutionellen Monarchie zwischen Heidelberg und Berlin," in *Verfassungsgeschichte*, pp. 175-220, especially pp. 213 ff. For Hegel's attitude toward Prussia in general and in detail, see Otto Pöggeler, "Hegels Begegnung mit Preußen," *ibid.*, pp. 311-352. For the political and social situation, see Reinhard Koselleck, "Staat und Gesellschaft in Preußen 1815-1848," in Werner Conze (ed.), *Staat und Gesellschaft im deutschen Vormärz 1815-1848* (Stuttgart: Klett-Cotta, 1962), pp. 79-112.

To justify his claim, Hegel presents a diagnosis of the (onto)logic that underlies their rhetoric, opposing it to the true logic of his own philosophy.

Among his progressive enemies, Hegel distinguishes two groups: first, those who speak from the heart, appealing to inspiration, religion, piety, edification, friendship, and love, without transposing their enthusiasm onto the level of rational argumentation (a group that is also his target in the Preface), and second, those who provide reasons for their position. Hegel dismisses the first group because they are impervious to arguments. The second group, on the other hand, deserves a rational refutation. Both groups proclaim the necessity that a constitution be established in which the rights of the king and his government are restricted by the lawful recognition of the citizens' rights. Following the *Déclaration de l'homme et du citoyen* of the French Revolution, the demand for a constitution that would limit the power of the monarch by stipulating the citizens' rights had not been silenced. By 1815, most monarchs, including the king of Prussia, had recognized this claim as justified and had either provided or promised a constitution.²⁶ The question of how a constitutional monarchy should be organized was still the subject of heated debates, however. The division of powers was thereby the central issue, but there was little agreement on its concrete realization.

Hegel agrees that a division of powers is essential for a rationally justified organization of the state. It is, in fact, "the guarantee of public freedom" (§ 272R). What he rejects, however, is the popular idea that (a) such a division demands separation and independence of the different powers, and (b) the relations between the powers should primarily be characterized as restrictive. The debate focused on the relations between the *legislative* power, often seen as the expression of the people's will, and the power of the government. Was the latter more than an *executive* power that should be required to obey the legislative? The key word among the liberals was "balance" (*Gleichgewicht*): out of fear that the power of the king or the government would oppress the legislative power

²⁶ It was only in 1848 that King Wilhelm Friedrich IV of Prussia granted a constitution to his people. See Rolf Grawert "Verfassungsfrage und Gesetzgebung in Preußen: Ein Vergleich der vormärzlichen Staatspraxis mit Hegels philosophischem Konzept," in *Verfassungsgeschichte*, pp. 257-309.

(which was supposed to belong to the people) or overpower the judges, they favored a system in which the different powers would keep one another within certain boundaries, such that none of them could assume absolute authority over the others.

The fear behind the ideal of checks and balances, says Hegel, implies an utterly flawed logic. It views each power as a threat to the others. This would presuppose that public life is governed by profoundly negative forces, namely, by wills that are oriented to particularistic power plays, not toward a common good. If this were the case, the basis and substance of the state could not be grounded in a will that creates and maintains unity. The foundation itself would then be a divided will; instead of constituting a unified state, the people would be the victims of separate substances fighting against one another in order to secure their proper independence. The state would no longer be one substance whose powers are mutually dependent modes or "accidents." Distrust rather than trust would become the general disposition, and this would either destroy the state or perpetuate an overt or concealed civil war. The normal outcome of such a war is that one power submits to the others, thus establishing a form of despotism. Whether such despotism would be monarchical, aristocratic, or democratic, is irrelevant when compared with the loss of freedom that results from radical separation.

The logic to which the liberals of Hegel's time explicitly or implicitly appeal is analytic, restrictive, negative, and anti-synthetic; it is the logic of the *Verstand*. Having radically opposed different elements of the state, they believe that unity, in the form of an equilibrium, can be established by building "dams" between those elements; they fail to see, however, that such dams only strengthen a basic hostility. If checks and balances replace fundamental unity, the pulverization of the community — from differentiation through separation to privatization and atomism — has already begun.

The logic of the *Verstand* expresses itself in politics by reasoning about all kinds of grounds, means, and ends, but it does not have a sense of union, substance, spirit, universality, and community. Its guideline is a trivial utilitarianism, and the disposition from which it emerges is plebeian: it is the "view of the rabble (*Pöbel*)" (§ 272R). The seriousness of Hegel's accusation can be seen in § 244,

where he defines the rabble as the non-class of those who, through unemployment, have lost their honor.

The only way to avoid the slippery slope that leads from the *Verstand's* analytic philosophy to a plebian utilitarianism is true philosophy, in which the self-determination of the concept is the image of eternal reason. Only true philosophers, says Hegel, can explain the truth to people and kings (§ 272R).

The People (§ 274)

As we have already seen, the state is a living "organism" (§ 269) comparable to that of an animal. In his course of 1817-18, Hegel explicitly compares the three powers of the state with the three physiological systems of sensibility, irritability, and reproduction. The legislative power corresponds to sensibility, whose function is self-maintenance; the governing power is analogous to the system of "irritability," which rules the interaction of the organism with its inorganic environment; the monarchic power is like the reproductive system, which guarantees the survival of the organism as a whole. As in the animal, these powers or systems imply one another reciprocally; failing this, the state becomes sick and dies.²⁷ Precisely how the differences between the political powers and their interaction is deduced depends not only on the speculative nature of the concept, however, but also on the historical phase a people has reached.

It is only in § 274 that Hegel, for the first time in his chapter on the state, refers to the people as a *Volk* with a specific character of its own.²⁸ The people emerges here as abruptly as in the general introduction to *Sittlichkeit* (§§ 142-157), where we read that "the ethical substance, since it contains the union of self-consciousness as being-for-itself and its concept, is the *actual spirit* of a family and

²⁷ See also Wa 176 and 182. It is not impossible that Hegel was inspired by Plato's characterization of the cosmos (*die Welt*) as a living being with a soul and nous (*zōon empsychon ennoun*) in *Timaeus* 30b-31b. The world of objective spirit (or second nature) is the ethical life of the human, thinking and willing "world." For commentary on the organic character of Hegel's state, see the studies cited in note 22.

²⁸ However, in § 257R, he implicitly identifies the *Volk* with the state by opposing the *penates*, as gods of the family, to "the *people's spirit* (Athene), which is the divine that *knows* and *wills* itself."

a people" (§ 156). In the latter section, the argument was that a self-consciousness could not be conscious of its identity with the substance of the ethical spirit unless it was the self-consciousness of a substantial group or community (of which there are only two, i.e., the family and the state). This argument rests on the assumption that individual minds, if they are not united by a non-contractual, "substantial" union, cannot be aware of themselves as identical with the ethical substance, but only as singular or associated accidents without substance to which they would belong. In § 274, Hegel seems to presuppose that a state is the actuality of the spirit in one of the specific forms of its objective but self-conscious existence; his phrase "the state, as spirit of a people" suggests that § 156 has already justified that presupposition. The purpose of section 274 is not then primarily to *introduce* the people, but rather to *qualify* the statement of § 270 about the state as actual self-knowledge. If the state is the knowing and willing self-organization of a particular people, its actuality cannot differ from its self-knowledge. The mode of self-consciousness, reached by the spirit in this or that people in a certain epoch of history, determines its organization through the particular ethos and culture of that people, i.e., though the characteristic mentality of its individuals.

Excursus on "People" and "Nation"

Beginning with his earliest meditation in Tübingen (1788-1793), Hegel continued to focus on the people (*Volk*) and its spirit (*Volksgeist*). In the so-called "fragment of Tübingen," the image of the "free" and "beautiful" Greek people inspired his criticism of the political, cultural, and religious situation of Germany toward the end of the eighteenth century and his hope of a better future. We could follow the transformations of Hegel's political ideal through all the epochs of his development,²⁹ but I will instead focus here on his work in Heidelberg and Berlin (1817- 1831). During this time, Hegel dwells much more on the state than on the people or nation. Though he sees the state as a nation-state, his arguments for the coincidence of the state with a particular

²⁹ Other places in the *Grundlinien* where *Volk* or the *Volksgeist* are mentioned are §§ 3 & R, 33, 156, 181R, 274R, 279, 301R, 302, 303R, 310R, 349, and 351. For the earliest phases, see *Le jeune Hegel*, pp. 11-27, 88-101, 208-211, and 225-230.

people are remarkably brief. In GrI § 156 he boldly declares that the actuality of the ethical spirit can only be found in the family and the people, but he hardly considers the possibility that a state can encompass several nations or that a nation can be divided among several states. In order to prove his position, he must deduce the concept of a people from that of the state or from some other concept. Unless "people" and "state" are simply two words for the same reality and thought, he must prove that the possibilities mentioned above are excluded or that they, though factually existent, are irrational. Although the state has been deduced as the actuality of a universal or common will, how does it follow from this that the common will can only be the will of a particular people or nation?

To clarify the relation between the people (or nation) and the state, we must consult several texts, beginning with the sections of the *Encyclopedia* in which the concept of the people appears for the first time. In Enc A 311-313 and (without substantial changes) in BC 391-394, the natural aspects of various nations are deduced. These sections belong to the beginning of Hegel's "Anthropology," i.e., his philosophical treatment of human beings insofar as they show the features of (a human kind of) animality, thus being very close to nature. The features of the "homo sapiens" on which Hegel focuses here are similar to those of animals, but at the same time fundamentally different because they express a human rather than an animal spirit. Hegel uses the word "soul" (*Seele*) to indicate the "immediate" or natural existence of the spirit in these human "animals." Phenomena such as race, sexuality, sleep, dreams, and corporeal feelings are studied in anthropology (Enc A 308-328; BC 388-412).

Being part of a particular people has natural and spiritual aspects. These aspects cannot be entirely separated and it is difficult to distinguish them while describing a specific people. Insofar as nationality is a natural phenomenon, it must be deduced in anthropology. According to Hegel, it is even one of the most basic phenomena of human existence. No one can reject the specific character that is imprinted upon one as the child of a specific people.³⁰

³⁰ Cf. Wa 179-180; *Vernunft/Geschichte*, pp. 95 ("Every individual is the son of his

Neither separated from nor totally immersed in nature, human beings have "natural qualities" without being absolutely determined by all of them. For example, their spirit is influenced by their physiology and by the climate in which they live, but their freedom offers them a certain distance from those influences. Hegel discusses the question, frequently debated in his time, whether humans are determined by the "planetarian," "sideric," and "telluric" movements of the sun, the stars, and the earth.³¹ He concedes that the change of seasons, different geographical locations, various climates, and different times of the day indeed have an influence on the moods and characters of various human types, but he decidedly rejects all astrology and is convinced that the "sympathy" of primitive and unfree people with the cosmic and meteorological changes of nature diminishes through progressive civilization. Theories about direct relations between the solar system and revolutions or other historical events must be rejected. While animals are influenced significantly by natural fluctuations, human freedom liberates us from this dependence. Though climates and seasons have some influence on our moods and vitality, only sick and mentally ill persons can be deeply affected by them. We feel different in the winter than in the spring, and in the morning our mood is not quite the same as in the evening, but a strong and free person does not get depressed by a rainy day.

The general nature of the "planetary life" is particularized in different human races whose characteristics express the differences between geographical continents (A 312; BC 393). Corresponding to the four main parts of the world, namely, Africa, Europe, Asia, and America, Hegel distinguishes four main races: African, Mongolian, European, and American. He even tries to

people in a determinate phase of the development of this people. Nobody can leap over the spirit of his people, as little as he can leap over the earth"), 115, and 122.

³¹ Enc A 311-314; BC 391-395. The *Zusätze* to the third edition are taken from student notes that were written before its publication. They contain explanations of either the second edition (1827) or the first (1817). Student notes of some of Hegel's courses are found in *Hegel's Philosophy of Subjective Spirit* (edited, translated, and annotated by Michael J. Petry, Dordrecht: Reidel, 1978), three volumes (the anthropology is in volume two), and Vorl 13 (G.W.F. Hegel, *Vorlesungen über die Philosophie des Geistes Berlin 1827/1828 Nachgeschrieben von Johann Eduard Erdmann und Ferdinand Walter*), edited by Franz Hesse and Burkhard Tuschling (Hamburg: Meiner, 1994).

deduce the conceptual necessity of these geographical and racial differences and recognizes connections between, e.g., the geographical shape of Africa and the racial features of the population living there.

A further particularization is given in the differences between "local spirits": the spirits of various peoples or nations (A 313, BC 394). These spirits have a characteristic anatomy and physiology and, in accordance with these, a typical way of life and work, including intellectual and ethical abilities and customs. The characteristics of each people are constant over time. They express the "principle" or spirit of the people (or nation).³²

When reading Hegel's treatment of the natural aspects of a people, it is important to realize that a people is, in the first place, a spiritual phenomenon: it is a particular incarnation of the universal spirit, which differentiates itself in materially and psychically different configurations. The principle of a people is therefore a particular spirit (i.e., a particular moment of the universal spirit) as individualized in a people. Hegel points out at least once that "nation," as etymologically related to *nasci*, indicates the natural genesis of a people, but the principle that rules its entire culture and history is a spiritual one: the spirit of this people, which makes itself known in the national self-consciousness.³³

As a particularization of the always active spirit, the *Volksgeist* must unfold and accomplish its principle, thus actualizing one moment of the universal spirit. Its development (*Bildung*) encompasses all the levels of the objective and absolute spirit: civil society and state, art, religion, science and philosophy. However, once the full flourishing is reached, a people begins to degenerate.³⁴

³² Grl 346 and 347R: Each people has one natural principle: anthropological particularity. Each principle is a developmental phase of the spirit's immediate natural actuality. The history of a people unfolds its principle from an infantile stage to its full bloom. Cf. Wa 246 ("Every people has [. . .] its determinate anthropological principle [. . .] and thus is a nation"); *Weltgeschichte*, pp. 41 ff.; *Geschichte der Philosophie*, edited by Johannes Hoffmeister (Leipzig: Meiner, 1944), pp. 64-65.

³³ *Vernunft/Geschichte*, pp. 64-65; cf. p. 154: "the people is at the same time a 'spiritual configuration' (*geistige Gestaltung*) and a natural entity (*Naturwesen*)."

³⁴ *Vernunft/Geschichte*, p. 122: "This principle of a people is its self-consciousness, the operating force in the people's adventures [. . .] The substantial [core] of the people's spirit must be seen as the Hermes that guides the souls to Hades, the leader and guide for all individuals." Cf. pp. 65, 67 (after its bloom a people

When describing various national spirits, Hegel does not make a sharp distinction between the natural and the spiritual aspects of a people's disposition and mentality. In one of his courses, he justifies his procedure by remarking that the natural dispositions are so abstract that a concrete description cannot avoid anticipating the spiritual (i.e., cultural) features that develop out of its natural principle (Vorl 13, p. 45). There is a deeper reason for the inseparability, however. Since nature in general is only an obscure realization of the spirit, the truth of natural elements or properties lies in the spiritual elements into which they necessarily unfold.

Hegel's descriptions of the English and the Germans may serve to illustrate his phenomenology of nationalities:

The English [. . .] know the rational less in the form of universality than in the form of singularity. Therefore their poets are far superior to their philosophers. [. . .] The individual here wants to rely on himself in every respect and to relate to the universal only by means of his peculiarity. Therefore political freedom among the English consists mainly of privileges, [i.e.,] of rights that are established rather than derived from universal thoughts.

The Germans [. . .] are known as profound and yet not infrequently obscure thinkers. We want to comprehend the innermost nature and necessary connection of things; therefore, in science, we set to work in an extremely systematic manner. On occasions however this leads us into the formalism of external and arbitrary constructions. Our spirit is on the whole more introverted than that of any other European nation. We like to live in inwardness of disposition and thought. Before undertaking anything, we concern ourselves [. . .] with carefully determining the principles according to which we are going to act. This is the reason why we are somewhat slow in acting, and why the honest desire to do something really well often results in our accomplishing nothing. Everything done must be legitimized by giving reasons for it. Since reasons are to be found for everything however, this legitimizing often becomes a mere formalism.³⁵

The meaning of the words "*Volk*" and its synonym "Nation," as deduced in the context of the "Anthropology," is free from ethical connotations, but on the level of *Sittlichkeit*, their meaning becomes ambiguous. "*Volk*" or "Nation" can be the German translation of either the Latin *vulgus* or *populus*. A *vulgus* is an atomistic

dies, as all mortal realities), 72, 120-123.

³⁵ Enc C 394Z (I have modified Petry's translation; cf. his vol. 2, p. 79 and 81).

aggregate of singularities, a mass of people without form or structure, a collectivity of individuals, a wild and blind, internally-divided power, comparable to the unleashed element of the sea. Such a popular mass has no history because it does not have any real unity.³⁶ *Volk* or Nation in the sense of *populus*, however, is an articulated community; its structure lifts it up above natural determinations by converting them into the expression of its freedom. A free nation actualizes itself as an ethical substance in a well-organized historical totality that knows itself as the unity of all its members. The actuality of a determinate people is the incarnation of its spirit in the natural features of its character. As such, and only as such, it deserves respect.³⁷ The structure of such a people is its constitution (*Verfassung*), and therefore a people or nation can be said to be identical with the state.³⁸ This is the sense of *Volk* most often used in the *Grundlinien*, for example, in § 274, analyzed above, and § 33 (Cc), where the State is called “the actual and organic spirit of a people.”

In Grl § 279R, Hegel contrasts the confused and muddled representation of a people as a formless, inorganic, and abstract mass, to which many proponents of “popular sovereignty” appeal, with the civilized concept of a people. The latter includes the conceptual structure of a political constitution, and therefore also the unifying function of the monarch, without which the people’s sovereignty cannot be understood. In §§ 301R and 303R the same opposition is expressed as a contrast between the empirical and indeterminate generality of “the many” (*hoi polloi*), and the universality of the political community. If a people is conceived as an atomistic collection of individuals, it cannot act as a unity, because it will be scattered in the disorderly multiplicity of uncoordinated actions without a common purpose. Such a people would be a collectivity without political cohesion and government. This is precisely what a separation between state and civil society would effectuate (§ 303R).

³⁶ Enc A 440; Enc BC 544R and 549R; Wa 177 and 422.

³⁷ Enc A 431 and 442; BC 514, 540, 544R, 545, 548, and 549R; Wa 172.

³⁸ Cf. Grl 331 (“Das Volk als Staat. . .”) and 303R, and Wa 177, 189-191, and 199 (“The highest form of a people is that all singular moments are developed and fully unfolded in a complete system. Cf., however, Su 4, p. 246, where a people, as a cultural community (determined by language, mores, and customs) is distinguished from a state.

Numerous sections of the *Grundlinien* repeat the idea that an authentic people is constituted as a state and that a state can neither recognize nor treat a pseudo-people (e.g., a horde or a tribe) as equal in right.³⁹ Throughout the text, however, Hegel continues to use "*Volk*" and "*Nation*" to indicate the anthropological formations that are not yet structured as states, for example, in § 181R, where an extended family is called a "people" and "nation" because of its common natural origin; in § 349, where he states that "a people is not yet a state;" and in § 279R, where he contrasts the people of Great Britain, which does constitute a state, with "the people[s] of England or Scotland [or] Ireland or Venice, Genua, Ceylon, and so on," which have lost their sovereignty and therefore their statehood. Though different nations, the first three mentioned are parts of one multinational state, which binds them together in a political unity that is sealed by a common constitution. Apparently, a state does not necessarily coincide with the anthropological and cultural determinations of the nations that are gathered in it. In the case of Great Britain, the structure of the objective, ethical spirit does not parallel that of the absolute spirit. Something similar is found in the Austro-Hungarian monarchy and the Helvetic Federation, both of which harbor several peoples.

On the other hand, Hegel recognizes that one anthropologically and culturally (and thus spiritually) unified nation can be divided into several states. In his inaugural address to the University of Berlin in October 1818, for example, he mentions that "the *German nation*," through victory against Napoleon in 1815, has saved its *nationality, the ground of all living life*," and in the *Philosophy of History* he also speaks about "the German people."⁴⁰

Hegel's theory of the relationship between nation and state has not been the object of extensive research.⁴¹ Further exploration of

³⁹ GrI 257R, 310, 349 & R, and 351. A "so-called people" (§ 310R) that has not yet become a state and therefore, remaining too close to nature, does not yet participate in history (which is essentially political and cultural), lives in a state of innocence, unaware of its own potential freedom and sovereignty, or is still involved in a struggle for recognition similar to the struggle of individuals in their transition from still unfree consciousness to rationality and freedom (GrI 349R).

⁴⁰ *Berliner Schriften*, p. 4; *Geschichte der Philosophie*, edited by Johannes Hoffmeister (Hamburg: Meiner, 1944), p. 3; Su 12, pp. 421-426.

⁴¹ Cf., however, Guy Planty-Bonjour, "L'esprit général d'une nation selon Montesquieu et le 'Volksgeist' hégélien," in Jacques D'Hondt (ed.), *Hegel et le*

Hegel's philosophy of history and of his view of the relations between the objective and the absolute spirit will perhaps shed more light on it, but a certain ambiguity remains. The political reality of 1820 shows a confusing map of multinational states, on the one hand, and nations split up by different states, on the other; however, Hegel's theory of spirit demands a reality more in line with the nationalism that dominates the history of the nineteenth and twentieth centuries. If the one universal spirit necessarily differentiates itself into particular spirits, and if the spirit's actualization implies hierarchical relations between its natural, ethical, and cultural (aesthetic, religious, and philosophical) levels, each particular or "local" spirit must concretize itself in a segment of humanity, i.e., in a people, whose natural, ethical, and cultural moments express that same spirit. One and the same spirit must animate and inspire the natural qualities of the community, its political constitution, and its artistic, religious, scientific, and philosophical culture.⁴² The constitution must therefore be in line with the characteristics that this or that people shows in its geographical, physiological, climatic, psychological, linguistic, and moral specificity. The German people, for example, as characterized by Hegel, cannot be partitioned into communities that are ruled by significantly different constitutions; the fact that this is the case contradicts his theory. Did Hegel want to suggest that Germany should become one state? In that case, the factual Prussia certainly could not have been the leader, because it was one of the most reactionary of the German states. However, it is not entirely impossible that Hegel implicitly pleaded for German

siècle des lumières (Paris: Presses Universitaires de France, 1974), pp. 7-24; Esperanza Durán de Seade, "State and History in Hegel's Concept of People," in *Journal of the History of Ideas* 40 (1979): 369-384. Armin von Bogdandy gives useful information about Hegel's dependence on Herder and the Enlightenment and his relation to later forms of nationalism in "Hegel und die Nation," in *Hegel-Jahrbuch* 1991: 41-51.

⁴² *Vernunft/Geschichte*, p. 123-125. "This spirit of a people is a *determinate* spirit [. . .], also historically. This spirit constitutes then the basis and the content in the other forms of the [people's] self-consciousness [. . .] It is *one* individuality that in the *religion* is represented, honored, and enjoyed as the essence, the god; in *art*, as image and intuition; in *philosophy*, known in thought and comprehended" (p. 123). As the objective existence of a people's freedom (which includes self-consciousness), the state is the substance that is admired, celebrated, and understood in its culture. Cf. also pp. 114-115 and 122.

unity. For once, he might have played a prophetic role. However, it is hardly possible to think that Hegel, with regard to the relationship between states and nations, wanted to "jump over" the European reality of his time. His nationalistic identification of the state's principle with the spirit of a people was an overly-simplified paradigm of *Sittlichkeit*, neither adequate as a description of the reality, nor credible as an ideal of his time. However, it cannot be replaced by another paradigm without considerably amending his theory. If a state can encompass different nations, its *ethos* (*die Sitten*) will be divided between more than one spirit, which inevitably causes some sort of internal war. The possibility that one nation, for example, "the German nation," is divided into different states, seems easier to reconcile with Hegel's political philosophy — but only on the condition that the constitutions of these states are very similar. If they differ significantly, some must be despotic, because they will not conform to the demands of the national character, or the nation will have split into different peoples, an occurrence that would inaugurate a new phase of history.

The Constitutional Monarchy (§§ 265-267; 272-274)

Hegel is more outspoken in his course of 1817-18 than in the book he published as a professor in Berlin. In the latter he unambiguously declares that the constitution of a modern state is conceivable only as a constitutional monarchy:

In a people that has developed into a civil society [and] in general into the consciousness of the infinity of the free I in its determinacy, need, choice, and conscience, only the *constitutional monarchy* is possible (Wa § 137).

How does Hegel understand what he, along with a variety of modern authors, calls "constitutional monarchy"? In § 237 of the *Grundlinien*, where he deduces the distinction between the legislative, the governing, and the royal power from the three moments of the underlying concept, Hegel explains why the post-Napoleonic idea of a *constitutional* monarchy is entirely distinct from prerevolutionary conceptions and practices of the monarchy.

The fundamental principle in all political communities throughout history was a "substantial idea" that maintained the unity of each. In the old world, this idea could not freely

differentiate itself into its own universal, particular, and singular moments. The distinction between these moments remained exterior to the substance, which therefore had to realize itself in one of the following massive and almost undifferentiated ways: either (1) as a singular substance in a monarchy that did not permit the participation of the citizens in the powers of the monarch, or (2) as unmediated universality in a democracy, or (3) as specific powers and privileges of particular groups of citizens in an aristocracy. The difference between these constitutions was due to a difference in quantity. This is a superficial difference, however: whether a single, a few, or all members possess the entirety of public power is irrelevant to the state's rationality. If the substance cannot realize itself as an immanently developed concept, its inherent rationality does not become concrete and, consequently, oppresses at least some members of the community.

While Hegel's diagnosis of the traditional theory may appear to indulge in purely logical and "speculative" considerations, we must not overlook his very practical and politically crucial point that all these constitutional forms "are in disagreement with the idea in its rational unfolding" (§ 272), and that "the idea cannot obtain its right and actuality" in any of them (§ 273 R).⁴³ Aware that Prussia, in 1820, was still far from becoming a *constitutional* monarchy, Hegel's contemporaries must have understood that he was here condemning the restorative movement as hopelessly reactionary: a monarchy without a constitutional determination of the rights and powers of all its citizens is outdated, irrational, oppressive, and on the way to tyranny or anarchy. This condemnation, given at the beginning of Hegel's treatise on constitutional law, must be kept in mind when reading what he says later about the powers of the king. Hegel defends neither an absolute, nor a patriarchal, nor a feudal monarchy, but rather a post-Napoleonic synthesis of distinct powers, in which all classes, estates, associations, subordinate communities, and individuals participate as members of one "substantial" whole. The democratic, aristocratic, and monarchic elements are no longer hostile toward one another, and the traditional

⁴³ GrI § 273 (p. 237): "those three forms (including the monarchical one [. . .] as posited *besides* the *aristocratic* and *democratic* form) [. . .] do not conform with the idea in its rational unfolding and this cannot find its right and actuality in any of them."

question, which imposed a preference for one of them, has lost its significance. Since modern history has allowed the idea to unfold its political potentialities more fully than before, the rational structure of the state is able to integrate all three elements, thus granting the one, the few, and the many specific functions within the three equally important constitutive powers of the state.

Hegel's idea that the constitutional monarchy integrates the political paradigms of the tradition as inner moments of the modern state might partially explain why he replaces the traditional division of powers into the legislative, the executive, and the judiciary, with his own division of legislative, governing, and royal powers, while relegating the judiciary to the dimension of the civil society. Hegel's distinction mirrors and at the same time sublates the difference between democracy (rule of the many, who are involved in legislation), aristocracy (rule of the few, who apply, concretize, and execute the laws), and monarchy (rule of the one, who heads and encompasses all powers). The prevailing view tended to see the executive and the judiciary as applications of the legislative, but Hegel insists on the cooperative and mutually inclusive character of the three powers (§ 286R) as opposed to a non-organic, mechanistic conception of their relations. In the name of the "sovereignty of the people," those who hold the latter view want to grant "the people" (in the as yet unstructured sense of "the many") the legislative power, to which the executive and the power of the crown would then be subordinated. Their conception is typical of the intellect (*Verstand*): for them, the ruling element is an abstract universal applied to the particular and the individual. According to the *rational* (*vernünftig*) concept of the state, however, the three moments include one another (Enc C 541R).

Though critical of any sovereignty of "the people," Hegel agrees with the wide-spread demand for the promulgation of a written constitution (*Verfassung*).⁴⁴ The word *Verfassung*, translated here as "constitution," has a broad meaning. Usually Hegel uses it to indicate the historically developed and further developing way in which powers and rights are defined and distributed within a

⁴⁴ Concerning historical and systematic questions about Hegel and the *Verfassung*, see especially the articles by Hans-Christian Lucas, Walter Jaeschke, Rolf Grawert, Otto Pöggeler, Ludwig Siep (also in Siep, *Prakt. Phil.* pp. 240-269), and Gertrude Lübke-Wolff in *Verfassungsgeschichte*.

particular people.⁴⁵ If a state does not possess a constitution in this broad sense, it is not a real state, but only an undifferentiated mass of individuals. The transition of such a mass into a structured organization is a question of history; being inherently conceptual, philosophy is not competent to provide strategic advice for this development. In general, philosophy cannot conceptualize phenomena unless they already have at least some appearance of rationality; completely formless "realities," like prime matter or *pure* obscurity, do not yield true thought. Political philosophy thus presupposes an already existing constitution, at least in the form of some seed or caricature of the rational structure that should be actualized in a fully rational state.⁴⁶

With regard to the hotly debated demand for a constitution, Hegel is rather laconic when he responds to the popular question of *who* ("the people," a constitutional assembly, the ministers, or the king?) should write or "make" the constitution. He finds it unrealistic to expect that some individual or group could determine *in abstracto* or *a priori* how the best of all states should be ruled (§ 274R). Constitutions are results of complex historical processes; they are not thought experiments generated behind professors' desks. The role of the professor is instead to reflect on the constitutional foundations of past and present states in order to discover whether and to what extent they are rationally justifiable. Philosophers always come too late; unable to fulfill the role of the prophet, they rely on history. They are, however, able to detect the principles that are transforming the established order. Thus in 1820, Hegel understood that the modern state must be a constitutional one, although many states, including Prussia, went without a written constitution until 1848 or later.

The constitution (in the broad sense) is the product of the people's own spirit.⁴⁷ If a written constitution must be promulgated —

⁴⁵ Cf. Grl 274R and 279R (pp. 244-245). For a good explanation of Hegel's concept of constitution, see Roberto Bobbio, "Hegel e le forme di governo," in *Rivista di Filosofia* 70 (1979), pp. 77-108 and "Sulla nozione di costituzione in Hegel" in *De Homine* 38-40 (1971): 315-328.

⁴⁶ Cf. toward the end of the Preface: "When philosophy paints its gray on gray, a shape of life has become old, and with gray on gray that shape cannot be rejuvenated, but only known; the owl of Minerva does not begin its flight until the dusk is falling."

⁴⁷ Grl 274 & R. Cf. Wa 177: "The organization of freedom, the rationality of a

and Hegel is convinced that this is a fundamental right of the people⁴⁸ — its codification cannot leap beyond the historical stage of the people's development; but it can and must formulate the spirit of the people in a rationally justified form. "Every people has [...] the constitution that is appropriate and belongs to it," and the codification should make this public (§ 274R).

Who, exactly, is capable of formulating the people's true self-consciousness (§ 273R)? Certainly not "the many" or "the people" as opposed to the ruling classes (§ 301R) because they are precisely the part of the nation that "*does not know what it wills.*" Although it is the spirit of the people, expressed in its ethos and culture (Wa 177), which produces its constitution (in the broad sense of a not-yet-written articulation), specific skills are required to recognize what is substantial in the prevailing mentality and to translate this into laws. In Athens, the mythical hero Theseus was thought to be the legislator; in France, King Louis XVIII provided his people with a constitution that "integrated all of the liberal ideas developed by the spirit of his people since the Revolution" (Wa 190-191). Whoever writes the constitution should be able to detect the spirit of the people that struggles to become explicit and public. If such an individual (or a group) correctly interprets the ruling ethos and mentality of the individual citizens, the ensuing constitution will be the historical product of the people itself (§ 274). Knowledge of the people's spirit is not given to "the many," but only to the best educated, the wise persons (Wa 190-191). When Napoleon, in contrast to Louis XVIII, imposed a new constitution on the Spaniards, this was rejected, though it was better than the one they had, because Spain had not yet reached the level that corresponded to it (Ilt 3, pp. 752-754; cf. Su 12, p. 444).

Hegel does not deny that the culture of a particular people can contain horrible aspects, but he counts these among the negative elements to be excluded from codification by those who possess enough discernment and power to eliminate them. Cooperation

people is the *constitution*"; 189: "The absolute cause of the constitution is the principle of a people's spirit as developed in history"; 191: "the constitution itself, the spirit of the people, is something divine; it makes itself in history by itself." See also Enc C 540R.

⁴⁸ GrI 211R, 215R; Wa 190-191.

between political philosophers (such as Hegel) and philosophical politicians (such as Altenstein) would perhaps qualify for this decisive role.⁴⁹

If a people already possesses a codified — albeit flawed — constitution, it must adhere to it, unless a completely new political culture has grown out of the one that is officially approved. Such transformations have taken place, for example, in the French Revolution and in the Napoleonic overhaul of Europe. Though the promulgation of a new constitution under such circumstances causes considerable changes in the existing order, it remains feasible; however, a totally new beginning, which presupposes a radical revolution, is impossible because it is too “abstract”: the reason of history is stronger and wiser than the intellect of romantic utopias.

Is Hegel speaking here as a follower of the historicist school of law, thus siding with Savigny?⁵⁰ Certainly, one could not accuse him of historicism. What he admires in the historical process are only those occurrences that, in the name of his logic, can be understood as rational. The factuality of prevailing customs or traditions has no authority for Hegel, but rationality does. If history, on the whole and in the long run, is progress — a conviction Hegel shares with the Enlightenment — this can be demonstrated only by a reconstruction of its logical development. It is extremely doubtful that Hegel’s general account of world history does justice to his object, even though similar accounts still permeate Western culture today. But Hegel would never agree

⁴⁹ In Enc A 440 Hegel insists on the non-arbitrary and non-contractual character of the constitution. A constitution is not a contract (between the king and his people or between different groups or powers within the community); it is therefore not “an *arbitrary* convention of different persons concerning something *arbitrary* and *contingent*. The connection is rather a *substantial* and *absolute* one; all rights and their actualization have their origin in it; [...] the constitution lies rather in the fact that the self-comprehension and activity of the substance is kept free from *Willkür*.” Cf. Enc A 430-431.

⁵⁰ For the relationship between Hegel and Savigny, see the studies of Giuliano Marini, cited in Chapter Three, note 10. With regard to the question of the constitution, see Walter Jaeschke’s “Die Vernünftigkeit des Gesetzes: Hegel und die Restauration im Streit um Zivilrecht und Verfassungsrecht,” in *Verfassungsgeschichte*, pp. 221-256. Although Hegel sharply criticizes the *historische Rechtsschule*, he agrees with Savigny that the history of law demonstrates the organic unfolding of the right that is present in the people and that codification is possible only as the formal declaration of this already operative right. Cf. GrI 211R and 274R.

that historical facts or permutations as such prove anything. World history cannot judge the validity of reason's or the spirit's demands; only "the logical" (*das Logische*), i.e., the idea, or the spirit, judges history.

The Rational Organization of the State (§§ 260-274)

The introductory sections and remarks in Hegel's treatise on the state (§§ 260-274) sketch the following task for his political philosophy:⁵¹ Since the rational state has the structure of an idea, it must actualize the differentiated unity of a concept — or rather, as we will see, a concept of concepts, i.e., a syllogism (Enc BC 198R). This structure is radically different from the (onto)logical structure on which the political theories of the *Verstand* are based. The fundamental pattern of these theories contains an opposition between *universality* and *singularity*. They try to overcome this opposition by viewing all singular elements of the ethical life as instances of the universal. Although subsuming the singular under the universal and applying universal "concepts" to singular cases, they cannot overcome their initial duality. *Verstand* treats the *particular* as the singular; it does not comprehend that the singular, the particular, and the universal moments of the state are *moments* of and within an "organic" *whole*. It remains blind to the truth that each of the moments mediates between the other two and thus includes the others and the whole in its own definition.

This contrast between two logics, the logic of the intellect (*Verstand*) and the logic of *reason*, has all-important consequences for the political reality. Both the traditional opposition of monarchy, aristocracy, and democracy, and the popular theory according to which the legislative, as the power of universal laws, should dominate the particular and individual activities of the executive, make the same logical mistake: both separate and oppose the moments of the concept without understanding that this opposition is only a provisional abstraction. Instead of choosing between monarchy,

⁵¹ My commentary on this, the most studied part of Hegel's political philosophy, will be succinct. I will focus on the underlying ontology rather than dwell on the more pragmatic questions one could ask with regard to Hegel's political stance. For more background and details, see *Verfassungsgeschichte* and *Sieph, Prakt. Phil.*, pp. 240-306.

aristocracy, or democracy, we must show how the essence of the state is the encompassing unity of the many, the few, and the one. These moments are then not separate and exclusive as hostile parties that must be held in check by one of them (how could that be done without falling into some form of despotism?) or by a fourth party, which then would stand outside and above the constitutive moments. Instead, the state is the threefold unity in which the monarch, the elite, and the entire people have found their appropriate places and functions as co-constituents of one whole. This is not possible, however, if they remain "abstractly" opposed to one another. As we saw previously, the people, as *populus*, has always already some form of organization through particular institutions that mediate between the manifold of its members and the unity of its head. The head cannot be isolated from the people or the intermediary institutions; when he makes decisions in the name of the whole community, he depends on their cooperation. If the head of state behaves as a separate entity above or even against the few and the many—without consulting with any of his ministers and unconcerned about the customs and desires of his peoples — the monarchy is replaced with despotism or tyranny.⁵² If "the many" oppose themselves to the government, anarchy — another form of despotism — has set in, destroying what was once a people. The modern state results from the historical unfolding of conceptual moments whose interdependence forms a synthesis (§ 273R).

The above has important consequences for the division of powers. If the logic of the idea must command the political structure, how then must the public powers relate to one another and the whole? The conceptual moment of singularity is distinct from

⁵² Wa 206: "A monarch at the summit of a state without a rational constitution encompasses the whole in his *Willkür* and can pervert everything." Note that Hegel rejects any form of power above the ruling powers, for example, a constitutional high court or a Fichtean ephorat. In his mind, such a power would again be a form of tyranny over the entire community. Hegel's concept of the division and union of constitutional powers echoes, on the political level, his conception of the relations between God (the *Geist*) and the universe: the summit is at the same time the encompassing totality. Both politics and religion exemplify his logic of the idea (i.e., his onto-logic as such). For a discussion on the legal aspects of Hegel's standpoint, cf. what Rolf Grawert writes in *Verfassungsgeschichte*, pp. 302-307. See also Rolf K. Hočevár, *Hegel und der Preußische Staat* (München: Goldmann, 1973), pp. 43-47 and 97-98.

the moment of universality but is not opposed to it because both are brought together through the moment of particularity: the unifying individual (the *monarch* or "prince") encompasses the allness of the people (the *demos*) which participates in the work of its head in ways made possible by the institutions of the government. Without the government's "*aristocratic*" mediation, the people would be an atomistic multitude or an indistinct mass, while the relations between monarch, government, and people would fall back on the competitive structures of civil society. The state would then contain within itself the seeds of civil war.⁵³

Hegel does not deny that the traditional triad of legislative, administrative, and judiciary powers contains logical elements of the concept, but he sees it as a "disorganization" (Enc C 541R) of the true totality. When the administrative (or governing) power and the judiciary power are understood as the subsumption of particular and singular cases under the universality of laws that are made by the legislative power, the differences between the three conceptual moments are conceived as purely external, and not as the self-differentiation of one whole. A whole, according to Hegel, can only be actualized as a singular unity that determines itself by embracing, through self-particularization, all of its singular instances, which, as members of this encompassing unity, constitute a perfect totality. Thus, Hegel's conception of the state follows directly from his onto-logic: actuality is rational insofar as it is a *conceptual* actuality, i.e., an *idea*. The dual functions of the monarch, according to this conception, parallels the structure of the father in the family. Both the king and the *pater familias* are only one element of the community over which they preside *and* the whole of that community; the head is the summit *and* the totality. Hegel does not defend a patriarchal form of government because he insists on the relative dependence *and* independence of all three powers, including the king; however, the basic assumption remains that an individual can coincide with the whole and that

⁵³ In Grl 273, Hegel defines the task of the governing power (which is different from the monarchical power) as the "subsumption of particular spheres and singular cases under the universal" (which sounds very much like a work of the *Verstand*), but in §§ 298-320 he explains that this subsumption is a conceptual mediation, by which reason distinguishes itself from the applications in which the intellect excels.

the totality is necessarily singular. While the totality of the family lies in the fusion of several persons into one person, who is at the same time collective and individual, the political union of the state is actualized in the king who personifies the entire people. In the family the conceptual structure is realized through love, while in the state it is through the more appropriate form of the will. The common will, in the person of the monarch, rules a people according to the demands of universal reason, as concretized in a determinate people.

Hegel's logic makes it impossible to conceive of another relation between individuals and their community than that of essential or "ideal" coincidence. If his logic is correct, no other alternative to contractualism is possible than the one sketched above, and all attempts to find contractual or quasicontractual structures — such as recognition — at the basis of Hegel's philosophy of objective spirit are doomed to fail. Such structures belong to subordinate dimensions, as will be further evident in the analysis of Hegel's view on international relations. What Hegel's philosophy lacks is the concept of a real community that does not require the guarantee of an encompassing individual. Recognition cannot unify a people. Aristotle's *philia* comes close, and Christian *caritas* should be explored carefully, but neither friendship nor love are analyzed in the framework of Hegel's political philosophy.

The State Is a Monarchy (§§ 275-286)

The state is a living organism, whose mutually interdependent articulations represent the whole from complimentary perspectives. As the actuality of the entire people's will, the state is primarily the expression of the people's overall self-determination. Collective determinations and collaborative decisions are possible only if a nation is distinct from other nations and maintains the unity of all of its own parts and powers. The first aspect of the state to be considered is therefore the moment of its distinct but encompassing individuality. This moment is realized and guaranteed by one of its "powers" (*Gewalten*) or functions: the monarchical power. The "absolute self-determination [of the entire people, expressed in its decisions] constitutes the specific principle of the monarchic power as such, which must be developed first" (§ 275).

Hegel begins § 275 with the monarchic function, which was enumerated last in § 273, while the legislative function, which came first in that section, is here analyzed last (§§ 298 ff.). This change is not to be interpreted as an expression of antidemocratic royalism, but it does oppose a conception that bases the entire constitution on "the sovereignty of the people" before answering the question of how a people can be one. Before one can speak of the role of legislation and the participation of "the people" in it, one must clarify how the state can form a unified whole, given the distinctions between the constitutional powers. Hegel's frequent comparison of the body politic with an animal reveals his conviction that the individuality of both a state and a body is at the same time the whole and one aspect or moment of it. The question then becomes who or what member performs this function? But first we must determine, in an abstract way, how the principle of the state's individuality is to be understood.

As one moment of its idea, the state's individuality contains the universal moments of what the people as a whole knows, wills, pursues, and realizes, i.e., its constitution and the laws in which its spirit is expressed. When the encompassing individual decides what actions it will perform, it thereby engages the entire people; but all its decisions should be true to the spirit of its people, which is expressed in its constitution and laws (§ 275). That the unifying power of the state cannot actualize itself unless a singular person acts in the name of all citizens is not deduced until § 279. At that point, it will be presented as a logical conclusion from the thesis that a state cannot exist as a singular whole if it does not have the power to make its own decisions (§§ 276-278).

The moment that guarantees the singularity of the state, is called "sovereignty." "Sovereignty of the people" was a revolutionary device of the American and French Revolutions, which the Restoration opposed, insisting instead on the sovereignty of the king. According to Hegel, the state — or the people as *populus* — is indeed sovereign with regard to other states (cf. "The Sovereignty Towards the Exterior," §§ 321-329) and to its own constitutive members and institutions (§§ 276-287R), but this presupposes that the people is already an organized system in which all singular wills are functionally related to one universal will. Sovereignty of the whole therefore includes, rather than opposes, the function of

the summit whose knowledge, will, and action reflect that of the entire community.⁵⁴

When citizens criticize the monarch's decisions, their criticism may be motivated in several ways. Perhaps the monarch failed to interpret the community's true will; if so, he has not adequately performed his function. The monarchic *function*, however, can only be defined as the power that determines what a people, according to its *true* spirit, wills. The critics may also have an incorrect conception of the people's spirit. Indeed, the truth of this spirit is often hidden in a complicated and chaotic mix of private and popular opinions and desires. Hegel's remarks about the difficult task of writing a constitution, the basic tenets of which have developed out of the people's historical experiences, is also valid for the decisions that must be made in its ongoing history. Only those who are wise enough to discover the truth of the people's spirit, keeping their wisdom free from contamination, can be trusted to fulfill the monarch's function. It may be that the factual king is rarely such a wise person — especially if the monarchy is hereditary, as Hegel advocates — but this threat can be held in check by giving important roles to the other powers and institutions of the state. Therefore, a certain balance of powers still seems to be necessary, but it presupposes a prior unity which guarantees that they function as members of one body.

The model of checks and balances can never be the fundamental principle of harmony among the various powers. These are like "liquid members" whose interaction composes one singular will.

⁵⁴ Grl 273 and 279R; Enc BC 541R. Hegel insists on the sovereignty of the *entire* state (including the king and the mass of people that is *wrongly* called "the people" if it does not include the monarch and the governing individuals). To speak of "the people" as opposed to the king or to speak of the king as the "servant of the people" means that one has already decapitated the (true) people. Such an "idea" is a "confused thought," or rather (because there is not much thinking invested in it) "a *barbarous* representation" (*wüste Vorstellung*) — the image of a "formless mass" without government, judiciary, order, sovereignty, and in any case not the idea of a state (Grl 279R). Throughout the discussion of the constitutional powers, it is also very important to be aware of the distinction between the obligations and interests of the public function and the private interests of the person who exercises it. "The powers [. . .] are exercised by individuals. Therefore they belong to them, but not as property, because they are only invested in them (*weil sie sie nur bekleiden*) according to their objective spirituality (*Geistigkeit*), not according to their particular natural immediacy. No power can therefore be independent or hereditary by itself" (Ilt 3, p. 759).

The people's spirit is a common substance, but because it is a will, it can only be actualized as a self. To be a self, the substance needs a human subject, because only a subject can decide and act in the world. To determine itself, the spirit must, at the same time, be the will of all and one single will. The substance that is a subject, therefore, requires a monarch whose will coincides with the will of the entire nation. All of this follows from the thesis that willing is necessarily the actuality of a will that is simultaneously singular, universal, and particular. Hegel's philosophy of the state is thus a direct consequence of the definition provided in §§ 5-7 (cf. § 278 R). If that definition is correct (which presupposes the correctness of his logic) and if people and state are collective individuals, Hegel's deduction is valid.

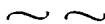
Before deducing the person of the king as the *Dasein* of the monarchical power, Hegel emphasizes that the powers, as public "jobs" (*Geschäfte*) and operations (*Wirksamkeiten*), are moments of the *state* and not the private property of any citizen (§ 279, cf. §§ 275-276). They belong to the people as an organized public totality; none of them, and certainly not the monarchical power, is anyone's property. Unlike the feudal system, the modern state has made all public functions accessible to those citizens who are qualified to perform them. Public functions are no longer reserved for specific classes. If a public function, e.g., the job of a military officer, which in Prussia was reserved for the nobleman, were the exclusive property of any group or individual, the nation would be, at least partially, *owned* by particular citizens or groups. They would then have the right to exercise their power according to their private whims (§ 278R), and this would result in (partial) slavery. A king who rules his nation as if it were his personal domain is a despot, and corrupt civil servants terrorize the other citizens. No public function can be anyone's property (which, as we have seen, is always private), and no one has a natural right to claim a public office (§ 277). Hegel, therefore, emphasizes that sovereignty, as distinctive of the unifying power, is not a prerogative; instead, the state distributes it, like other constitutive powers, to the person who can adequately perform this function (§ 278 & R).

It is a mistake to view sovereignty as the exclusive property of a specific entity. The particular will of such an entity, e.g., the king or the many, would then dominate the nation instead of fulfilling

the public functions necessary for its survival and well-being. If private opinions or choices prevail over universal laws — if the monarch, for example, as absolute king, is “above the law” — the constitution is replaced by a lawlessness very close to the Hobbesian state of nature.

Hegel does not provide an analysis of the prerevolutionary absolute monarchy, but he often compares the modern nation-state with the feudal system, in which neither the state nor the king was sovereign (e.g., § 278R). A feudal king cannot be sovereign because his power is opposed to the powers of vassals and towns. The feudal state cannot be sovereign either because it is divided by independent powers. It is, however, relatively easy to apply elements of Hegel’s analyses to the kind of monarchy that prevailed in Prussia when he wrote his *Rechtsphilosophie*. Friedrich Wilhelm III had advisors, but he did not accept the idea that his will should be limited by new legal institutions. His particular will was law, insofar as decisions had to be made and new laws created. Even if he was always concerned about the overall end of the state, i.e., its free well-being, its realization was not guaranteed by objective institutions.

When Hegel refers to sovereignty as the “ideality” or the “idealism” of the state (§ 287R), he wants to emphasize that the nation, as the *idea* of the totality, encompasses the powers into which it is differentiated as “organic moments,” thus preventing them from behaving as independent entities. Referring to his treatise about animal life (Enc A 293), he declares that a state is sick when the “ideal” — the conceptual and actual — interdependence of its functions transforms into separate operations of independent powers. In place of Hegel’s comparison of the state with an animal, we could also compare it with a human individual. Sickness of the state would then refer to the sickness of an individual. A human being is sick when it is internally divided by a chaotic or disharmonious multiplicity of spiritual phenomena, for example, by a psychotic split or moral depravation. Political sovereignty must prevent or resolve similar contradictions in the state by means of an *objective* construction. This presupposes socioeconomic structures that convert the private egoism of the burghers into the promotion of general well-being, as well as a governmental policy that submits all citizens to their common goal (§ 278R).



Having analyzed the abstract concept of sovereignty (§§ 276-278), Hegel asks in § 279 what kind of empirical *Dasein* follows from this concept. The will of an entire people through which it makes its own decisions can be realized only if there is a singular subject that coincides with the universal subject of the nation. This subject is a singular person whose public function it is to make decisions, not according to his "private opinion and pleasure," but as the personification of the entire people: the will of the monarch as monarch, and not as a private person, *is* the will of all. As decisions of a single will, they are to some extent arbitrary and contingent, but their contingency is influenced by the universal determinations of the laws and the advisory work of the administration on which the monarch relies when he fulfills his task. If there is no written constitution or if a people is still unorganized, the monarch is dangerously independent. As we have already seen, a non-constitutional monarchy is close to tyranny. This insight is not contradicted by the last sentence of the Remark to § 279, where Hegel concludes that the monarch has a particular place and function of his own *above* all other functions within the state. The monarch does not stand above the state — he belongs to it as its summit — but he must coordinate all public powers, including that of the summit, within the totality. Hegel insists on the (onto)-logical necessity of the transition from the abstract concept of sovereignty to the empirical reality of the person of the monarch. Like personality, sovereignty is a conceptual abstraction; to become real — and thus an idea — it requires a sovereign individual. A "moral person," for example, such as a family, an association, a municipality, or a church, cannot make concrete decisions unless it can express itself in and through the will of a single representative. In antiquity, the state was not yet fully developed because the idea of free will had not yet unfolded into the necessity of a self-conscious, knowing, and free subject whose individual will embodied the universal will. Instead of a constitutionally defined monarch, the *polis* was led by various founders, heroes, leaders, or generals, although it sensed the necessity of an ultimate, unifying and deciding, power. This power was not sought, however, among the human individuals who were involved in the action. Fate or the gods were invoked to determine the direction that the *polis* should take. To discover the will of the gods, priests consulted oracles and

augurs studied the intestines of sacrificed animals and the flight of birds; to discover the direction his life should take, even Socrates listened to the voice of his daimon. The principle of a single sovereign was thus anticipated in a premodern, but not fully self-conscious, way.

Defenders of the people's sovereignty, in the anti-monarchical sense current in Hegel's time, contend that the government — and if they accept a monarchy, also the king — should be subordinate to the majority of the citizens or their representatives. They try to justify their view by appealing to the thesis that the "general will," as will of the entire people, should be obeyed. However, because unanimity is unlikely, the majority of votes must replace the will of all. Hegel's fundamental objection here is that the opinion of the majority coincides neither with the true concept of freedom and right nor with the spirit of the people for which it speaks. What the spirit wills and what its right demands is not obvious to a vulgar mind. Clearly, it is not obvious either to an uneducated or stupid and stubborn king, but that is precisely the reason why the monarchic power should be linked to other public powers, so that it cannot make decisions in isolation. The final decisions of a king should be the result of a hierarchically-structured process in which all the public levels and functions are involved. For this reason, Hegel says, in one of his lectures, that the king only puts the dots on the i's.⁵⁵ That an absolute monarchy cannot yield a similar harmony is stated clearly in his course of 1817-18: "The ultimate subjectivity is precisely the contingency; but how does it enter into the necessity of the whole without destroying it? As a last decisive stone, it is a necessary moment of the whole [...] A monarch at the summit of a state without a rational constitution embraces the whole by his arbitrary will and can corrupt everything" (Wa 206).

⁵⁵ Cf. *Ilt* 4, p. 674: the monarch "can limit himself to a mere signature. Thus, when the constitution is stable, he does not do anything; only his name is needed and this is the empty 'I will' beyond which there is no other will."

Hereditary Monarchy (§§ 280-281)

Having proved that the individuality of a state requires one human individual whose single will makes the ultimate decisions, Hegel argues for a monarchy that is not only constitutional but also hereditary (§§ 280-281). His argument is "purely speculative" (§ 280R), i.e., philosophical. The intellect (*Verstand*) is able to recognize the negative consequences of an elective monarchy, but it does not comprehend the (onto)logical necessity of a non-chosen monarch. Elections are competitive: two or more parties compete with one another. This renders *particular* interests, and therewith particularity, the basis of the election. The one chosen represents and then defends a particular and partial politics, not the universal interests of the entire state. If politics is determined by votes, partiality and civil war have already begun to destroy the community. Because the particular bias of a chosen president is opposed to the ethical totality, the nation loses when one party wins. If it is necessary that the one will that decides about the concerns of the state as a whole is not tied to any particular interest, this will, on the one hand, should be as empty as possible, while on the other hand, it should be representative of the various motivations and demands that constitutes the public life of the national community. Final decisions should be based on the information and advice offered by the representatives of various groups, estates, corporations, departments, committees, secretaries of state, etc. In the end, however, choices must be made. To a certain extent, most decisions are contingent, because it is not always easy to determine which alternative is best; but one cannot endlessly postpone a decision. A comparison with the role of conscience in private affairs may clarify the role of the monarch (Wa 205): following all reflection and consultation about particular pros and cons, a choice must be made, even though it is rather arbitrary. The necessity of a monarchical will encompasses the contingency of its final choices.

The argument paraphrased above is a form of "reasoning" in which the intellect excels; it begins with the consequences and then goes back to the causes. Though Hegel finds it superficial, he does not reject it. While the *Verstand* does not develop its conclusion from the true foundation, which is the *idea* of the state, a proper development of the basic idea cannot be found outside of

speculative thought. As an example of this, Hegel reminds the reader of the ontological argument, which he interprets as the immediate and necessary transition from the *concept* of perfection to the immediate *Dasein* of this concept. The transition of the logical idea to nature was Hegel's first concretization of this transition. In his political philosophy, a parallel transition is made by the thought that the divine majesty of an individual, which encompasses and "is" the entire people, must be realized in the form of an *immediate*, and therefore *natural*, i.e., biologically contingent, existence. Hegel's reasons for defending a hereditary monarchy are both negative and positive: first, the head of the state cannot depend on any particular will (as embodied in specific groups, classes, professions, functions), and second, the "appointment" must come from a non-arbitrary, and therefore non-human, assignment or "will": the will of the spirit as immune to particular interference by human choice. This, Hegel thinks, is only possible as an *immediate*, i.e., naturally contingent, assignment. Nature, biological genealogy, inheritance in the most immediate and unreflective (and thus also irrational) sense, is his secularizing retrieval of the traditional "kingship by the grace of God" or the ancient appointment of kings and heroes by Fate or the gods.

As individualized universal will, the spirit identifies itself with a natural being-there, but, as natural, this being-there is itself entirely contingent. Ultimately, it does not matter whether the king is smart or stupid, well-educated (though this is preferable) or not; his insights or motivations are not important, for the only thing he must do is to decide. Normally the decisions of the monarch are the outcome of preparatory processes on which the government focuses much of its activity within the framework of the laws, in the making of which the entire nation has participated. The monarch cannot have a special program and he must make a distinction between his private wishes and the demands of his function. Only then can he stand above the various parties and make sure that they belong together as distinct elements of one community, which through him maintains its unique universality. Those who, in the name of "the people's well-being" or "salvation," glorify the opinion and customs of "the many" mistakenly interpret, as the basis of politics, a structure that is appropriate only for civil society. Their *Verstand* destroys the state (§§ 280-281 &

Remarks) because they do not understand what unity, community, and universality mean.⁵⁶

Universality and Particularity of the Monarch (§§ 283-286)

According to the organic principle that each power must encompass all the moments of the entire state, the monarch takes part in the legislative activities (§§ 285-286) and the ways in which the government concretizes the laws (§§ 283-284).

The bulk of the *government's* activities must be accomplished by the ministers, but to guarantee close cooperation, the monarch himself must choose his ministers and advisors (§ 283). However, to prevent his decisions from being motivated by partiality, full and exclusive responsibility for the activities of the government must fall on the ministers alone. The king's function forbids him to be identified with any particular policy; as the summit, he should not be forced to justify why the law has been interpreted or applied in this or that way. The crown "is above all responsibility for all actions of the government" (§ 284).

The monarch's participation in the *legislature* is equally real, although significantly reduced. His decisions are bound by the established constitution and by his cooperation with the government and the parliament. His conscience, the subjective moment of his activities, cannot be forced to be lawful and good, but neither can the consciences of subaltern rulers and other citizens. The only guarantee for a good policy lies in the combination of a rational people and a rational constitution; the rest belongs to the contingencies of history. With regard to the latter, we may trust

⁵⁶ In § 282 Hegel mentions the *right of pardon* as a prerogative of the monarchic sovereignty. This right is not a question of justice because crimes *must* be punished. When judges combine considerations of justice with feelings of compassion or mercy, they usurp a power that does not belong to them. A higher power — and the head of state embodies the highest power — can correct or even sacrifice the right of a lower sphere. Hegel here suggests that the monarch is not bound by the laws of the judiciary; however, this view widens the gap between the encompassing character of the monarch and his sovereignty. Obviously, the summit and the totality are not entirely identical, as other passages suggest. Hegel even grants the monarch divine (or supra-divine?) power when he writes that the monarchic sovereignty includes the right "to actualize the power of the spirit to undo what has been done and, through pardon and forgetting, to annul the crime." Cf. GrI 99R and Ilt 4, pp. 278-288 and 684.

that, on the whole and in the long run, reason will triumph, although there is no guarantee that this victory will be celebrated in Prussia or any other nation-state in 1820.

Functions of the monarch other than those mentioned will be treated when the international order comes into sight. The competitive relations between sovereign states have important consequences for the relations between the sovereign and his compatriots, but the principles from which these consequences follow have been laid out in the preceding sections.

The Monarch According to the Course of 1817-18

Since the publication of Ilting's four volumes, a segment of the German literature on Hegel's political philosophy has focused on his conception of the relationship between the power of the king and the power of the people's representatives. Ilting's thesis that Hegel concealed his true convictions or even changed his mind in the *Grundlinien* out of fear of the censor has been convincingly refuted;⁵⁷ but it is undeniable that some of his courses, though in full agreement with the principles of his book, are more explicit about certain aspects that risked offending the Prussian king and the conservative or reactionary circles of his time. The course notes of Wannenman (1817-18) are a good example. According to these notes Hegel's conception of the monarchy (Wa 200-206) does not differ substantially from the 1820 version, but he does emphasize aspects that are underexposed in the book.

Hegel is here more emphatic about the importance of the ministers and, in general, of a fully developed rational constitution in order to prevent arbitrary and despotic actions on the part of the king. The monarch is only the ultimate, abstract, purely formal, and subjective pinnacle of the political pyramid (Wa 201);

⁵⁷ See the references in the Introduction, notes 29 and 31. Three eminent studies on Hegel's conception of the monarch are Claudio Cesa, "Entscheidung und Schicksal: die fürstliche Gewalt," in *Theorie*, pp. 185-205; Bernard Bourgeois, "Le prince hégélien," in E. Weil et al., *Hegel et la philosophie du droit* (Paris: Presses Universitaires de France, 1979), pp. 85-130; and (with much attention to the logic of Hegel's argumentation) Denise Souche-Dagues, "Le pouvoir princier," in her *Logique et politique hégéliennes* (Paris: Vrin, 1983), pp. 75-125. See also Siep, *Prakt. Phil.*, pp. 106-107 and 266-267.

its necessity lies in the formal "I will," which the nation as a whole requires in order to make decisions at all. The rationality of the king's decisions depends entirely on the preparatory and advisory work that is accomplished by the other powers of the state. The basis of the state's activities is provided by the constitution and the general laws; the king has a say in their establishment, but a rational constitution (not that of Prussia) requires him to listen to the voices of the estates and their public representatives assembled in the chambers, and to cooperate with the ministers, who propose and prepare all decisions about the application of laws. The core of all political rationality lies in the basic laws; the rest is development and concretization.

On the communitarian level, the role of the king parallels the decisive moment of the moral process in which all individuals are involved: he must make the last decision, just as the moral subject, after considering possible strategies, makes a decision by cutting off all possibilities minus one. The moment of the moral decision is not itself part of the play of reasons and counterreasons; it puts an end to reasoning with a deliberate, but in itself "groundless," act of *Willkür*. The decisive "I will" is not contained in the preceding consultation; as an abstract, singular, arbitrary, and contingent act, it is external to the deliberation. Similarly, the king's "I will," which is identical with the people's will, must put an end to the deliberation. None of his decisions should be dictated by any faction or party. To protect the monarch's will against partiality, it must not be determined by insight into the rationality of the decision — this must be the goal of the legislative and executive powers — but only by the necessity of making a decision at all, which as such is always contingent. The arbitrariness (or "formality") of the final decision guarantees the *impartiality* of its author, whose function stands *above* the parties that are in competition over particular grounds and strategies (Wa 200-204, 206).

The same thought, stated even more clearly, is found in Hegel's course of 1822-23:

At issue is the assumption [...] that the particular character of the monarch is the essential thing. However, this assumption is invalid, for in a developed organization the point is precisely that there is a summit of formal deciding, a natural stability of decision. Therefore, the particularity of the character is here precisely irrelevant.

What one needs in a monarchy is therefore a person who says "yes," [i.e.] who puts the dot on the "i." For the summit must be such that the particularity of the character is not significant. True, here too, the particularity plays a role, but it is not the essential factor; and it is a mistake to think that the personal particularity of the monarch is the determining moment (Ilt. 3, pp. 763-764).

What the monarch has besides the last decision is something that belongs to the moment of particularity, which should not be decisive. For it would be a disaster, if the [particular] personality [of the monarch] were the deciding element. Certainly, there are circumstances in which this can happen, but such a state is not well constructed (Ilt 3, p. 765).

Hegel attempts to show that these sentences have a concrete and verifiable meaning, when he argues that a rational organization of the state prevents the monarch's decisions from being dictated by pride, conceit, envy, hatred, voluptuousness, obstinacy, and the like (Wa 206-207). His intention is clear, although the reasons he provides, at least insofar as Wannenman understood them, are hardly convincing. He says, for example, that the monarch cannot act out of personal pride because this pride is already satisfied by the public recognition of his function; he cannot damage the state out of greed because the ministers, not he, control the national capital and, furthermore, he has a generous salary; also, his voluptuousness cannot influence the political totality because it is easy for him to satisfy all his passions (Wa 206-207).

The entire weight of "our constitution, [i.e.,] the constitution we [Hegel] develop," (Wa 206), lies, therefore, in the effective actualization of fully developed legislative and executive powers. Without such mediation, the king and "the many" find themselves occupying opposite poles, without any possibility of cooperation. The constitution must safeguard both the independence of the monarch's will and his complete dependence on the rational work of the subordinate ministers and estates.

In ancient times, the formal and contingent character of the monarchical "I will" was found in oracles and natural phenomena, but in the modern culture the will has been interiorized into the individual's conscience. However, the immediate (and thus natural) aspect of the deciding will — an aspect of the ancient fate or fortune — is maintained in the natural character of the subject who exercises the decisive power: the appointment of the summit

must not be left to human choice, which is always led by particular interests; it must be given by nature, i.e., by birth. According to Wannenman's notes, Hegel even went so far as to say that "the rationally divine [moment of the state] is the constitution, [while] the monarch is the naturally divine [moment]" (Wa 204).

Since the monarch is not involved in the particular details of politics, his decisions cannot be justified through arguments about their adequacy. Such arguments must be provided by the ministers who recommend the decisions to the monarch. The responsibility, therefore, falls on the ministers, who must countersign the laws and decrees accepted by the king (Wa 203-204).

Hegel's insistence on the formal and empty character of the monarch's singular will does not contradict the thesis that the monarchic function encompasses the entire state, including all public powers. The king does not participate in the debates of the chambers and his ministers, but he does make the final decision, at least in the form of his signature. All political activities converge toward his will, but this will should not be determined by competing opinions. A king (or — for that matter — a president) who represents one party is the greatest enemy of the people.

The Government (Regierungsgewalt; §§ 287-297)

Hegel calls the mediating power "the power of government," rather than the executive power because its tasks encompass much more than the application or execution of laws and decisions. It must, for instance, also propose and prepare the establishment of new laws and decisions, maintain the institutions and public associations that compose the state, and develop plans and strategies for the future. All its tasks follow from its position as mediator of the state: as "standing in the middle" (*Mittelstand*), it keeps the state united, just as the middle term of a syllogism keeps the two extremes, the singular and the universal, united.

An important aspect of its work regards the manifold of associations and communities in which individual citizens are gathered within the overall framework of the state (§§ 287-289). As we have seen, the civil society organizes itself by grouping its participants, on the basis of common interests and similarity in work, in corporations, while churches, towns, municipalities, counties, and

provinces likewise form relatively independent wholes. The corporations are best governed by their own members, because these know best how their particular interests can be satisfied. The boards of these associations should therefore be elected and the members should agree on statutes for their association. The government should not directly intervene in their self-management; but, to prevent private and particular interests from overruling the universal interests of the state, it must (1) protect the self-rule of those corporations and (2) keep the various associations within the limits of the universal laws and demands of the state. To stress the political significance of the corporations, the government must also (3) make the validity of their elections dependent on its own confirmation or install a mixed system of election and appointment (§ 288).

The principle of independence in obedience to the state — or, as we would call it, the principle of subsidiarity — constitutes “the democratic principle in the monarchy,” as Hegel says in his course of 1817-18 (Wa 210-211). By allowing individual citizens to participate in the ruling of their corporations and subordinate communities and by having them represented on the level of the national parliament, the government shows them the respect and confidence needed for the cohesion of the entire body politic. In its dealings with the corporations, the government must find ways to help their members overcome the egoistic and competitive mentality that is the rule of civil society. They must learn that their concentration on private interests is doomed if they isolate themselves from the organization of the overarching community. Once they understand this impossibility, patriotism becomes the more fundamental disposition, which keeps their egoism within the boundaries of the national unity (§ 289R).

The task of state officials is not easy: their function demands that they submit *all* particular interests, including their own, to the universal rights of the entire community. Not only do they need the appropriate knowledge and ethical disposition for the fulfillment of this task (§§ 291, 296), but they must also avoid forming an independent class whose bureaucratic arrogance would oppress the lower echelons of the political hierarchy (Wa 217). Trusting a well-formed constitution more than moral exhortations, Hegel intends the former to force the civil servants to be — as a true

middle — in contact with both the monarch and the citizens (Wa 217). Having studied the political situation of Württemberg,⁵⁸ he is aware of the corruption into which state officials easily fall when their legal and political know-how inclines them toward arrogance. As a remedy, Hegel proposes the strengthening of the two other public powers and the overcoming of political competition through the organic interpenetration of all public powers.⁵⁹

In opposition to the relics of feudal politics, Hegel insists that any citizen who has the required ethical disposition and sufficient political knowledge should be eligible for appointment as a civil servant. In contrast to certain privileges still existing in the Prussia of 1820, he declares that government jobs cannot be linked to birth or other natural or class qualifications, because there is no rationally justified link between the public task, including specific rights and duties, and the *natural* aspects of the persons who must fulfill that task (§§ 291-294).⁶⁰

We have already seen to what extent the judiciary and "the police" are elements of the governmental power. They are subordinate branches of the government, insofar as this has the obligation and the right to supervise and, if need be, to amend the regulation of private and social affairs in the name of the laws and decisions of public life (§ 287).

⁵⁸ The present interpretation of Hegel's *Rechtsphilosophie* does not refer to the elements of his political philosophy that are contained in his long article on the discussions between the king and the representatives of Württemberg that took place in 1815-16 with regard to a new constitution: *Verhandlungen in der Versammlung der Landstände des Königreichs Württemberg, im Jahre 1815 und 1816*, anonymously published in the *Heidelbergsche Jahrbücher der Literatur*, 1817. For good secondary literature on this text, see Claudio Cesa, "L'atteggiamento politico di Hegel nel 1817: lo scritto sulla dieta del Württemberg," in *Incidenza*, pp. 271-308; Hans-Christian Lucas, "'Sehnsucht nach einem reineren freien Zustande': Hegel und der württembergische Verfassungskstreit," in Christoph Jamme and Otto Pöggeler (eds.), *"Frankfurt aber ist der Nabel dieser Erde": Das Schicksal einer Generation der Goethezeit* (Stuttgart: Frommann-Holzboog, 1983), pp. 73-103; Christoph Jamme, "Die Erziehung der Stände durch sich selbst: Hegels Konzeption der neuständisch-bürgerlichen Repräsentation in Heidelberg," in *Verfassungsgeschichte*, pp. 149-173.

⁵⁹ GrI 295-297; cf. 213 and 217.

⁶⁰ This does not contradict Hegel's defense of the natural basis of the (hereditary) monarchy, because the monarchic function is not defined in terms of specific skills or cultural or moral features.

The Legislative Power (§§ 298-314)

With regard to “sovereignty of the people,” Hegel’s progressivist contemporaries defended the idea that an assembly of the people’s representatives should overhaul the *ancien régime* and, as a legislative body, establish a new state by promulgating a constitution. Against their proposals, Hegel emphasizes that no legislature can inaugurate a constitution, because the existence of a legislative power *presupposes* an already constituted state. The idea of a constituent assembly is contradictory, for where could it have found its legitimation? Legislation is possible only as the collection and further development of laws and institutions that are already in place.

Since the legislative power is not the highest or most fundamental power, but only one of the constitutive elements of the body politic, it cannot act independently. Moreover, it cannot be identified with the power of the people. In opposing the people to the monarch and his ministers, one reduces “the people” to an element of the state (or the people, § 301R), and even if it is then the largest, it is not the most enlightened or politically skilled element. The king and the public administration belong to the national community as much as “the many”; in the development of the laws of the community, all must, therefore, play a role appropriate to their own function (§§ 298 and 301R).

Hegel’s last word concerning the state is “totality”: the actuality of its freedom, which coincides with the freedom of its citizens, lies in a political constitution that, through objective means, guarantees the harmonious cooperation of all who exercise its powers. As we have already seen, he strongly rejects any theory that demands a higher institution than the monarchical to which the enforcement of that cooperation must be entrusted. For example, Fichte’s “ephorat”⁶¹ or a constitutional court with the right to indict the king should either coincide with the monarch or be an institution outside and above the state. But how, in the latter case, could the state be sovereign?⁶²

⁶¹ Fichte, *Grundlage des Naturrechts nach Principien der Wissenschaftslehre* (Jena, 1796). *Fichtes Werke*, edited by Immanuel Hermann, volume 3; anastatic reprint (Berlin: Walter de Gruyter, 1971), § 16, vi-x, pp. 160-178.

⁶² As we will see in Chapter Twelve, world history performs the function of a

The Democratic Element (§§ 301-303)

The role of the people is essential in the legislative process, but it should be organized in a way that guarantees cooperation with the king, government officials, and other citizens. A condition for such a contribution is that the homogenous mass of atomic units be structured as an articulated body.

A first phase of structuralization occurs on the level of civil society, where "the people" is grouped in different classes on the basis of different needs and professions. This articulation must be maintained on the political level and enriched by performing appropriate public functions. As integral parts of the state, the various classes participate in its legislative and ruling tasks. But before we enter into the particularities of these tasks, the more general question must be asked: What does the state owe to its citizens, and what do they owe to the state (§ 299)?⁶³

Besides protecting all the rights deduced in the preceding chapters of the *Grundlinien*, the state must also allow its citizens limited participation in political activities. Their duties follow from the essential connections between their own individual freedom (including their well-being) and the freedom of the state as a whole. They must serve the state in exchange for the state's serving them; but how can the various services be distributed equally and

"supra-statal" might and "right" (cf. § 30R).

⁶³ The extent to which Hegel sees the state as the source of the good of its singular citizens can be seen from passages like the following: "Only in the state do humans have a rational existence. The purpose of all education is that the individual not remain subjective but become objective in the state. [. . .] All that a human being is, he has to thank the state for; only in the state does he have his essence. All value he has, all spiritual actuality, he has only through the state" (*Vernunft/Geschichte*, p. 113). "Art and religion can be real only [. . .] in the state. [. . .] One should not imagine that such [spiritual qualities] could emerge in isolation, though all great humans have formed themselves in solitude, but only by integrating what the state had already produced" (ibid, pp. 113). The state grants all that is necessary and objective, but it cannot conquer all contingency. Therefore, it cannot procure total salvation from pain and evil; however, consolation can be found in the dimensions of absolute spirit. "The state is a [second] nature, a world, a present world [. . .], where everyone retains his property, finds use for his talents and abilities, and even interest for his higher skills. In general, the state is the context in which man receives what he deserves; but since he, as this individual, is singular, a large sphere of contingency is opened. As singular and immediate, humans have contingency in themselves and are involved in external contingencies" (Ilt 4, p. 318).

justly? In Plato's republic, the government imposes different functions with corresponding burdens on the various classes of citizens according to their natural and spiritual capabilities, but this method contradicts the modern principle of subjectivity, according to which each citizen is free to perform any job for which he has the requisite capabilities.⁶⁴ The only way to distribute equal burdens for all citizens is to replace specific services with something purely quantitative that can be divided in equal parts. Money is again the great equalizer that provides the solution. Instead of accomplishing concrete kinds of work, all citizens should pay equal taxes, thus remaining free in their choice of a profession. Hegel does not elaborate, and we cannot ask him, whether a \$1,000 tax has the same value for the wealthy as for the poor. He seems to view money as an instrument of justice, but entirely neglects the questions of proportionate justice that Aristotle had thematized at length⁶⁵ (§ 299).

In justifying the people's role in the making of laws, Hegel stresses, on the one hand, the importance of the participation of the people, while on the other hand, protesting against the democratic tendencies of his time. The proponents of democracy share the argument that, since "all" citizens must obey the laws, "all" should likewise participate in the deliberations and decisions through which the laws are developed and established. Hegel responds first that they do not mean what they say, because they, too, exclude women and children from having any influence on legislation. A more fundamental objection to their reasoning lies in the superficiality of their concept of "all." The *Verstand* understands allness or universality as an empirical or inductive generality; but reason is more concrete and thus more practical. The rational concept of universality is not a numerical series, but an

⁶⁴ About Hegel's assimilation of Plato's *Politeia* (= *Verfassung*=*constitution*), see M.B. Foster, *The Political Philosophies of Plato and Hegel* (Oxford: Clarendon, 1935; reprint 1968); M. J. Inwood, "Hegel, Plato, and Greek 'Sittlichkeit,'" in Pelczynski, *State*, pp. 40-54; Klaus Düsing, "Politische Ethik bei Plato und Hegel," in *Hegel-Studien* 19 (1984): 95-145, and "Ethique et doctrine de l'état chez Platon et Hegel," in Ada Neschke-Hentschke (ed.), *Images de Platon et lectures de ses oeuvres* (Louvain: Peeters, 1997), pp. 283-294; Adriaan T. Peperzak, "Hegel's Philosophy of Right and Plato's *Politeia*," in Peperzak, *Platonic Transformations: With and After Hegel, Heidegger, and Levinas* (Lanham: Rowman & Littlefield, 1997), pp. 19-56.

⁶⁵ Aristotle, *Nicomachean Ethics*, V, 3-5 (1131a10-1134a16) and *Politics*, V, 1 (1301b26-1302a15).

articulated whole; a rational concept of "all citizens" presupposes therefore the organization of their community as a political system of its cooperating parts. Universality is not a common denominator; as a genus it is articulated in determinate species, which are instantiated in different singularities (§§ 301R, 303 & R, and 308 & R). Hegel draws from this principle the consequence that representation of "the people" cannot issue from a universal right of vote. General and proportional elections would reproduce the atomism of unconnected individuals on the level of the parliament. What the parliament needs is a representation of "the essential spheres of the society" and their "great interests," so that it mirrors the pre-existent structure of the community as a whole (§ 311 & R, cf. 308).

The *Stände*, whose origin lies in the civil society (§§ 202-205), have a political role insofar as they mediate between the individual citizens ("the many" or "the people") and the government. In this function they should rather be called "estates."⁶⁶ They represent the particular interests of the corporations and other associations, which should be harmonized with the interests of the nation as a whole. In consultation with the government, the estates realize the identity of public and private interests. Through them, the correct political mentality (*Gesinnung*) has found an objective institutionalization (§§ 302-304 and 308).

The participation of the citizens in public affairs through the representatives of the estates cannot be justified by arguing that "the people" knows best what is good for it (for its freedom, rights, well-being, etc.). Such a democratic assumption ignores the complexity of politics. A valid answer to such questions as what exactly is best for the state, and what, in concreto, are the demands of freedom, requires rigorous thought, which is not widespread among "the many."⁶⁷ Political competence can only be expected from persons who have already accomplished political tasks, especially higher officials. They do not require the representatives of the *Stände* to make good laws, for they are better informed and

⁶⁶ See Chapter Nine, note 16. With regard to the representation of the *Stände*, see also Rolf K. Hočevár, *Hegel und der Preußische Staat* (München: Goldmann, 1973), pp. 41-42 and 110-111.

⁶⁷ GrI 300, 301R, 308R; cf. Wa 221-222.

have a deeper insight into the political feasibility of needed changes. In this respect, the information provided by the representatives of the states is "only an addition" (*Zuwachs*, § 314).

The true justification of democratic representation is threefold. *First*, the representatives of the estates must inform the government about the behavior of subaltern officials. *Second*, and more important, the parliamentary debates that precede the main political decisions inform the citizens about the state of affairs and educate those who would otherwise have no inkling of the nation's politics (§§ 301R, 309, 315). It is presupposed, of course, that the representatives know what is going on in the corporations and that they have the common good in mind, while honestly representing the particular interests of their estates (§§ 309-310R). The objective guarantees that are necessary for supporting these subjective conditions can be found in financial independence or past careers that demonstrate the patriotic disposition and management skills of the representatives.

The *third*, most important, reason why the people must participate in the legislature lies in the formal right of all citizens to have a share in the most important political decisions and to know what has been decided and why. Awareness of political developments is a condition for agreement, even if the parliamentary process leads to laws or decrees that have not received the majority vote. The right to be informed is a consequence of the modern principle of subjectivity (§ 314). What is best for the state should not only be decided and realized, but also recognized and desired by the citizens (§ 301, cf. Wa 221-222). Hegel does not dwell on voting procedures, and his mention of the "deliberation and decision" of the representatives (§ 309) or "their shared knowledge, deliberating, and deciding" (*Mitwissen, Mitberaten, und Mitbeschließen*, § 314) does not imply that they participate in making the final decisions, for this is the exclusive right of the king who consults with the government. Hegel's chamber of representatives in fact looks more like a seminar than an assembly for resolving conflicts through compromises. Fear of internal hostilities makes him emphasize the necessity of mutual disclosure and agreement under the guidance of experienced politicians who have the keenest insights and the most comprehensive perspective.

The Political Function of the Stände (§§ 303-314)

Hegel's insistence on the necessity of articulation and organization is justified by his logic of the concept: the individual summit of the state and the formless *universality* of *singular* citizens cannot form one whole unless these "extremes" are connected through the mediating role of *particular* institutions that are related as various species through which the universal is determined. This differentiation of the universal unites the political level and the socio-economic level of the nation by raising the three classes and the corporations of civil society up to the level of the state, thus giving them political functions. If Hegel's theory of the constitution is fully rational, a rigorous deduction may be demanded in order to demonstrate the necessity of such an arrangement. In the preceding chapter, we saw how the three classes and the main corporations of the second class were deduced from the essence of the civil society. To justify that these classes also have a political function, Hegel must show how they form a logical structure that requires the political mediation explained above. He tries to do this in sections 303-311, which parallel the deduction of the classes in §§ 202-205.

Hegel's logic of the *Stände* is ruled by the distinction between immediacy (logic of being), reflection (logic of essence), and universality (logic of the concept). The *immediate* estate is the natural one: the estate of the landed gentry, which lives a life of intimacy with nature (§ 305-307); the *reflective* moment is obviously present in the estate of industrial merchants (§§ 308-311); and the *universal* estate gathers together all those citizens who, on the basis of their qualifications, work for the government (§ 303).

The attempt to deduce by logical means the Prussian landed nobility, including its legal privileges and restrictions, shows how far Hegel wants to go in his deductions, even at the risk of ridicule. However, his emphasis on the ties between his first class and *nature* is interesting. The *Stand* of the large landowners is substantial (in contrast to the two other classes, which are highly subjective, intellectual, and rational) because their life is supported by the regular course of nature (§ 305) and based on the family (§ 307). This class grounds the entire state in a most stable element: the very soil of the nation. Their natural character and the fact that

their inherited property makes the *Junkers* independent of the monarch and the mass of the citizens distinguishes them from the two other estates. Hegel declares that this difference must be expressed in the existence of two chambers: the house of lords, dominated by the lower landed nobility, and the chamber dominated by the merchants and industrials (§§ 306, 312).⁶⁸

Nature intervenes in all parts of Hegel's philosophy of objective spirit: the family is distinct from other associations by the natural aspects of sexuality, birth, and consanguinity; the civil society is based on natural needs and labor, while its wealth is derived from natural property; the monarchy is anchored in the natural process of reproduction; and the estate of the *Junkers* is the most stable and "substantial" element of the state because of its dependence on nature, which associates it with the hereditary monarch. Without the natural element, neither property nor labor would be possible. It is essential to Hegel's construction of right because it is not subject to choice or manipulation. It provides the nation with an objective basis, thus protecting it against the volatile arbitrariness of human whim. As the substantial basis of the state, it protects the nation against revolution and anarchy (§§ 203, 304-306).

The universal *Stand*, composed of civil servants, does not need a special representation, because its members are already involved in politics through their jobs. The preparation of laws and their application, along with consultation and advice bind them to the universal will and stimulate their patriotic disposition.

⁶⁸ For details about the Prussian situation regarding the various *Stände*, see the important article of Gertrude Lübke-Wolff, "Hegels Staatsrecht als Stellungnahme im ersten preussischen Verfassungskampf," in *Zeitschrift für philosophische Forschung* 35 (1981): 476-501. In Prussia, the *Junkers* (landed gentry or country squires) formed a special class of the lower nobility, but they remained close to the king (§§ 203, 304-306). Their vast lands did not belong to them as property in the full sense of the word, because they only had the right of use (pp. 487-488 of Lübke-Wolff's study). The land they owned could not be sold and was, as a rule, inherited by the oldest child in order to prevent partition. This institution was called the *Majorat*. The *Vermögen* (including the capital and the means of existence) of a *Junker's* family was thus not dependent on private choice. In contrast with the subjective *Willkür* of the merchants and entrepreneurs of the middle class, the class of the landowners was "substantial," unchosen, and fundamental. Cf., however, Otto Pöggeler in "Hegels Begegnung mit Preußen" (*Verfassungsgeschichte*), who argues that Hegel, in mentioning the *Majorat*, is primarily thinking of the English lords.

The middle class, however, which is strongly dominated by private interests and is always in danger of degenerating into a chaotic atomism, needs representation; furthermore, the government needs its input for the optimal organization of public life. Ruled by egocentric needs and contractual relations, this *Stand* is by itself the clearest résumé of civil society as a whole. In order to keep its centrifugal forces within the boundaries of the political community, the state must give it a determinate place in its constitutional structure (§ 311).

The two classes that must be represented in the most fundamental, i.e., legislative, operations of the state can be contrasted as substance and subject, countryside and town, rest and movement, hereditary stability and industrial, as well as commercial, restlessness. Together they express the two sides of the state in its most concrete development. Hegel gives a few, fairly unconvincing arguments for having them represented in separate chambers (§ 313: a plurality of chambers with their own discussions is safer; an extra check prevents impetuous decisions; it diminishes the opposition between government and representatives), but what he stresses above all is the reason why a representative system is necessary (§ 314). One should not expect better decisions from parliamentary deliberations, though the concrete experiences of the representatives in the field of their profession provide the government and the other representatives with additional information (cf. § 301R). However, the fact that parliamentarians confront the higher administration with their experiences in dealing with lower echelons of civil servants is a good check on the latter; and, in general, the publicity of parliamentary proceedings heightens the quality of the preparation of laws and decisions through deliberations among all the participants. The main reason for a parliamentary system, however, is that the participation of the first and second estates in the knowledge, the consultations, and the decisions of the universal estate actualizes the right of all the citizens to cooperate in the organization of their communal life. At the same time, this cooperation provides them with a schooling in political know-how and information.

Hegel does not attempt to provide a more detailed deduction of the subordinate groups that compose the state. In fact, he says nothing specific about the corporations whose importance he has

demonstrated in §§ 250-256. Apparently, he leaves further differentiation to positive legislation, when he speaks in general terms about "particular spheres" (§§ 298R and 302), or "particular circles" (§§ 302 and 308R), "communities" (*Gemeinden*, §§ 299, 308 & R, 309, and 310R), "corporations" (289R, 299, 308 & R, and 309), or *Genossenschaften* (which comprise many kinds of association from cooperatives and partnerships to companies).

The importance of his insistence on the necessity of subordinate associations does not lie in a complete map of the social and political hierarchy, but rather in the principle of *subsidiarity* that is implied in his theory of mediation. Though he does not mention it here under the names he gave it before, his "principle of subjectivity" cannot be taken seriously if individuals and groups capable of ruling themselves are not allowed to govern themselves within the boundaries set by the rights of the totality.

Actuality and Reform

An insight into Hegel's conception of "actuality" (*Wirklichkeit*) and rationality can be facilitated by a comparison of his conception of the legislative power with the political reality of his time.⁶⁹ As mentioned before, Prussia's political situation around 1820 was a mixture of *ancien régime*, including an absolute monarch and feudal privileges of the nobility, and underdeveloped elements of a postrevolutionary modern state. Other states in Europe had advanced further, but none of them could completely satisfy Hegel's criteria. He has the Prussian state in mind when writing the *Grundlinien*, but his perspective is influenced by several proposals and attempts at reform regarding other countries. The political future to which Hegel wants to contribute is a transformation that does not deny the historical reality but develops its best elements in the most rational way he can imagine. He could not have known that the conservatives would win, but there were enough signs of an imminent crisis.⁷⁰ He shares the general tendency of the

⁶⁹ See Rolf Grawert, "Verfassungsfrage und Gesetzgebung in Preußen: Ein Vergleich der vormärzlichen Staatspraxis mit Hegels rechtsphilosophischem Konzept," in *Verfassungsgeschichte*, pp. 257-310 and the article of Lübke-Wolff cited in the preceding note.

⁷⁰ For example, Prime Minister Hardenberg, the leader of the reform

reformers, for example, when he employs an argument similar to theirs for the existence of two chambers, with one mediating between the government and the people and the other mediating between the government and the other chamber.⁷¹ Whereas several reformers proposed a second chamber in which, together with the second estate, all farmers and the entire nobility would be represented, Hegel reserves the first chamber for the *Junkers*, while rejecting all representation of other farmers and other parts of the nobility. To understand Hegel's position, it is helpful to know the context: With the exception of the Rhine province, no one in Prussia proposed elections, and with regard to the chamber of commerce and labor, all politicians and political theorists agreed that only property-owners and entrepreneurs with factories could be members.⁷² Blue collar workers and *a fortiori* proletarians should be excluded.⁷³ Hegel defends the old institution of the *Majorat* as a *political* necessity, although, in his courses, he calls it an injustice against the family.⁷⁴ He shares with the reformers the idea that the people must be represented by members of the various classes and corporations, but he opposes elections and his second chamber is entirely dominated by merchants and entrepreneurs.⁷⁵

The idea of Hegel's nation-state exists only in his book, but he tries to show the rationality of the hope that some not-so-rational but existent institutions can be transformed into parts of a more rationally organized state. *Sollen* is clearly an element of the political "actuality" that Hegel sees as implied, and in this sense already given, in the ethical principles that define the post-Napoleonic era.⁷⁶

movement, was not supported by the king and had to retire in 1822.

⁷¹ GrI 313 and Lübke-Wolff, art. cit., pp. 485-486.

⁷² Lübke-Wolff, art. cit., pp. 483-484, 490.

⁷³ Lübke-Wolff, art. cit., pp. 498-500.

⁷⁴ Ilt 3, pp. 808-809; 4, pp. 713-714; Lübke-Wolff, art. cit., pp. 488-489, 492

⁷⁵ GrI 303, 308, 311 & R; Lübke-Wolff, art. cit., pp. 488-489, 493.

⁷⁶ For an excellent and elaborate study of the roles and relations of the political powers, including the position of the *Stände*, consult Siep, *Prakt. Phil.*, pp. 240-248. Siep also shows how Hegel's conception of the *Verfassung* changed over time, even — though not fundamentally — between 1817 and 1820 (pp. 252-256). See also Otto Pöggeler's *Einleitung*: Wa ix-xxvii, especially xxiv-xxvi and xxxix-xxlvii; Elisabeth Weisser-Lohmann, "'Divide et impera': Zu Hegels Heidelberger Stände- und Verfassungslehre," in *Hegel-Studien* 28 (1993): 193-214; and

Public Opinion (§§ 315-319)

Not every citizen has a say in the assembly of the estates; representatives voice the interests and perspectives of the groups to which they belong, but there must also be space for a discussion of public affairs by the general public. Besides the parliamentary consultation, public opinion, too, has a right to be heard.

Hegel views public opinion and a free press (§§ 315-319) as necessary, but subordinate, elements of the modern state. As we have seen, his greatest concern is to overcome the opposition between the government, the decisions of the king, and the multiplicity of private individuals. The immediate relation between the government and an undifferentiated mass of individuals is dangerous when the parliament, in which the extremes are mediated through the cooperation of representatives with the government, is bypassed. However, the right of all citizens to express their opinions about the public affairs of their community follows from the modern principle of subjectivity. All singular subjects have the right to realize their subjectivity, not only through property and free transactions, but also by expressing their interiority in public. Public opinion is the appearance (*Erscheinung*) of the formal or subjective freedom of the citizens to make known their opinions, judgments, and advice about political affairs (§ 316 & R). The truth about the universal will must not only be actualized, the entire population must also be aware of it, and this awareness presupposes public information and discussion.

Hegel's analysis of public opinion shows that it is a mixture of universal, essential, substantial, and true elements, on the one hand, and particular, peculiar, accidental, contingent, and false elements on the other. The bulk of the citizens is committed to the true good of the community, but many of them are caught in narrow, particular, and egoistic perspectives. These perspectives are not mediated by a third element; they form an *immediate* mixture of unreconciled contradictions (§§ 316 and 317R). Public opinion is a dubious appearance (*Erscheinung*) and a contaminated form of knowledge. While concerned with the universal moment of the state (in the form of common freedom and well-being),

Jean-François Kervégan, "De la démocratie à la représentation: A propos de la politique hégélienne," in *Philosophie* 13 (Hiver, 1987): 38-67.

public opinion presents this moment from the biased perspectives of the singular citizens' particular interests. Hegel illustrates the contradictory nature of the "people's voice" (*vox populi*) by insisting on the simultaneous truth of both the ancient proverb that it is "the voice of God" (*vox dei*), and Ariosto's statement "that the ignorant populace decries everybody and speaks most of what it understands least."⁷⁷

Hegel is indeed convinced that a people is committed to its true substantial freedom and knows "the essence and the specific character of its spirit." In this respect, it cannot be misled by anyone, not even by its own government. But the mode of its knowledge is inadequate, and it is unaware of its own biases and distortions of that deep commitment. It can therefore be misled *by itself*.⁷⁸

The more an opinion is characteristic of a particular person, the less universally valid it will be. Opinions are personal ways of knowing things, but they cannot found the truth. Although public opinion contains some true convictions about the principles of justice and right, as embedded in the constitution and the laws, it presents these convictions in the form of common sense (*der gesunde Menschenverstand*). Common sense is built on a number of unproved and unreflected prejudices, however. When average citizens without political or philosophical experience talk or write about public affairs, they are misled by subjective biases and prejudices. Unhindered by insight into the complexities of politics, they take pride in their judgments and, mistaking the sensational for

⁷⁷ Ariosto, *Orlando Furioso* 28, 1. The following is the correct text of Goethe's quatrain from his series of bons mots *Sprichwörtlich* (Proverbial) that Hegel quotes in the note to § 317R:

*Was ich mir gefallen lasse?
Zuschlagen muß die Masse,
Dann ist sie respektabel;
Urteilen gelingt ihr miserabel.*
(What must I put up with?
The masses must strike away,
Then they are respectable;
In judging they succeed miserably.)

J.W.F. Goethe, *Sämtliche Werke* (Frankfurt am Main: Deutscher Klassiker Verlag, 1988), vol. 2, p. 398.

⁷⁸ § 317R. Hegel alludes here to King Friedrich the Great's prize question for the contest of the Academy of Berlin in 1778: "Whether it can be useful to cheat a people." Cf. Wa 191.

the "original," prefer it to the truth of the universal and rational core of politics (§ 317).

How should the government — and politicians in general — approach public opinion? An appropriate response to its undialectical mixture of truth and distortion would be to meet it with a mixture of respect and contempt (§ 318). Since public opinion contains elements of truth, it would be sufficient to liberate these elements from falsifying admixtures. However, this requires that one can distinguish truth from falsity; but if one knows the truth already, why would one still need public opinion at all? Public opinion is itself unable to make the required separation; it persists in a troubled, dubious, half-true, half-false mode of judgment. The best attitude is therefore one of independence: to realize something great, trust reason alone; make it your own, courageously accepting widespread criticism from the people. Your rational judgments will become the prejudices of the next generation (§§ 318 and 317R).

Another response (not adopted by Hegel) would be to ignore public opinion as harmless and insignificant. Hegel himself is convinced of the damage such a response can do, because he views thoughts, feelings, opinions, and the entire dimension of human interiority as the source of all action. Public opinion must, therefore, be monitored and limited by wiser counterweights: the people's voice as interpreted by the representatives of the estates and the politicians who guide and advise the government.

Freedom of the Press (§ 319)

Hegel dedicates one section (§ 319) and a long Remark to an aspect of public opinion that was much debated in 1819-20: the press. Under the influence of Metternich, the governments of Germany and Austria had made certain decisions about the press. In order to repress revolutionary tendencies, censorship had been reinstated, which, of course, distressed all liberals who viewed freedom of the press as a fundamental right.

According to Hegel, all citizens have a formal right to voice their opinions about public affairs, but this right is limited by other rights. First, we must understand what "freedom" means in this context. Those who adhere to the definition of "freedom" as

the right to do what one wants to do, will define freedom of the press as "writing whatever one chooses to write." Such arbitrariness leads directly to anarchy, however. If freedom is the actualization of the concretely universal will, all writers are responsible for their influence on the ethical situation of their country. Personal offenses, slander (especially with regard to the monarch, the government, and the officials), contempt for the laws, incitements to robbery, murder, or rebellion, go against the very aims of politics. If such excesses are influential, they must be prevented or punished by law. However, it is rarely necessary to have recourse to laws, ordinances, police, or judges, because there are many *indirect* ways in which the state can defend itself against written attacks. The first and foremost guarantee of the nation's freedom against the false freedom of irresponsible writings lies in a solid construction of the state: when its constitution is rational, its government stable, and the parliamentary discussions public, the opinions of dissenting journalists have little weight, because the citizens are already instructed by the solid insights embedded in the public institutions and interpreted by the professional politicians. In such circumstances (not realized in Prussia), the government can ignore the scribbblings of its critics. Only when their negative influence on the population becomes preponderant, legal and political measures may be required. Since their success depends on the behavior of their readers, the latter likewise play a role in decisions about the prosecution of journalists and political analysts.

Although Hegel agrees with the principle that the interests of the state sometimes justify censorship, he clearly points in another direction when he stresses that repression of dangerous publications should remain exceptional. Reform of the constitution, a public representation of the people, and publicity of the parliamentary debates are more important; if these basic conditions are realized, the majority of public opinion can be left alone (§ 319 & R). As long as common sense and individual opinions are mistaken for the truth too much weight is given to the arrogance of private persons. It is only in the assembly of estates that public opinion is transformed into a more rational thought. Here, the government brings its knowledge of political matters to the fore, while discussing them with the representatives. By being challenged to cooperate for the common good, the representatives

must perform on a high level of argumentation and judgment. For themselves and for the entire people, the parliament is thus a school of political education (§ 315). Once again, the middle level between the monarch and the many is the decisive factor: as mediation, it achieves the nation's unity.

Any nation that lacks a parliament is sick. Prussia in 1820 was such a nation. Thus Hegel again clearly implies that he belongs to the party advocating fundamental reform. His justification is neither liberal nor conservative, however; it is philosophical, i.e., conceptual, logical, and speculative. Neither an abstract universal will nor an atomistic network of private subjects can guarantee that the nation remains united by a common will; this can only be accomplished by public cooperation between government and parliament.

The State Is a Conclusion of Conclusions

In his logic of the objective concept (1816), or more precisely in his analysis of "absolute mechanism" (GW 12, pp. 143-147), Hegel makes a surprising remark about the (onto)logical structure of the state, which, though not repeated in the *Encyclopedia* of 1817, returns in the *Encyclopedia* of 1827 and 1830, again in the context of absolute or free mechanism (BC 198R): Analogous to the solar system, the state is "a system of three *Schlüsse*" (syllogisms, conclusions or con-closures), i.e., a syllogism in which each term is at the same time one of the "extreme" (or opposed and mediated) terms *and* the middle term for the other two. As we have seen in Chapter One, a *Schluss* unfolds the three moments of a concept in three sentences: the universal, the particular, and the singular moments are displayed two by two as different, related, and linked to one another through internal relations, and thus as components of one totality. The concept of property, for example, is composed of a *singular* free will (S) that has the *universal* right (U) of owing a *particular* thing (P). The structure of this concept can be expressed as the unity of S, U, and P, or — since the unity of S and P is justified or mediated by the universal right (U) of free persons — more precisely by the formula S-U-P, in which U functions as the mediating or middle term between S and P. U is here the ground for the union of S and P. Insofar as we focus here only on the

essential relationships between the terms S and P, which is revealed by the essential relations of the middle term to both, we can also write P-U-S instead of S-U-P.

As Aristotle has shown in the *Analytics*, diverse syllogistic structures are possible: not only can the universal mediate between the other two, but the same is true of the singular or the particular moments. However, for a true, absolute, and independent totality, it is not sufficient to show that it is composed as a syllogism. In order to manifest its autarchy, we must show that *all* its constitutive moments include one another independently of other terms outside the concept of their union. This can be done by showing that each term functions as the middle term for the other two. If this is accomplished it is clear that the three moments do not need anything else to be what they are and to constitute the totality whose components they are (cf. Enc A 139; BC 192-193). The formula for such a structure is threefold: S-U-P, U-P-S, P-S-U. A non-relative, complete, and absolute totality is the self-sufficient synthesis of three syllogisms that imply one another, while together forming a closed circle of reciprocal implications.

Retrieving Aristotle's analysis of syllogistic figures, Hegel has developed a complete theory of syllogistic structures (GW 12, pp. 90-126, Enc A 129-139; BC 181-193) whose objectivity he illustrates in his logic of objectivity (including the concepts of mechanism, chemism, and teleology, GW 12, pp. 127-172; Enc A 194-212; BC 194-212) and the remaining parts of his philosophy. Throughout his work syllogistic structures can be discovered; as soon as he mentions some kind of mediation, it is possible to schematize his argument by reducing it to formal connections between universality, particularity, and singularity, as we have seen many times in this interpretation. This fact is not surprising for a philosopher who is convinced that philosophical thought is the comprehension of the conceptual (and thus the syllogistic) form of all things.

Examples of mediation in the *Grundlinien* are found in §§ 157 and 256R, where the state is presented as the origin or ground and the conclusion of family and civil society; in § 275, where the monarch, as the embodied *archē* and *telos* of the entire state, encompasses the universality (U) of the constitution, the consultation (P and middle term), and the power of the ultimate determination (S); in §§ 302 & R and 304, where the significance of the *Stände*

(P) is sought in their mediation between "the many" (S) and the government (U), including the monarch (§ 302 & R); and in § 300, where the *Stände*, as empirical universality (U), mediate between the government's consultation and deliberation (P), and the monarchical power of ultimate decision (S).

However, the state itself cannot be seen as a moment of some larger whole. Its autarchy is comparable to the solar system: it is a universe. This can be shown if the essential moments of its constitution form a self-sufficient syllogism of syllogisms. How exactly this demonstration must be achieved is controversial among the Hegel scholars.⁷⁹ The first riddle is why Hegel, who strongly insists on the organic structure of the state, emphasizes the state's syllogistic structure in a remark regarding absolute mechanism, and not rather in the context of life, teleology, or ideality. Perhaps his idea that the state, as the completion of *Sittlichkeit*, is a second *nature*, together with the cosmos-polis analogy to which Siep refers (p. 261), has seduced Hegel into presenting the political universe as the spiritual counterpart to the solar system of the first nature, which, in its most abstract form is a mechanistic (and Newtonian) universe.

Hegel's own explanation of his remark on the syllogistic structure of the state is sketchy; he does not seem concerned about an exact determination of the kind of syllogism that is at stake and does not provide details. Perhaps a thorough analysis of his theory of mechanism could shed more light on the meaning of comparison, but even without attempting such an analysis, the following indications are obvious from his remarks in GW 12, p. 145 and Enc BC 189R.

In both passages Hegel summarizes the constitution of the state as a synthesis of three moments for which he uses several synonyms:

⁷⁹ Cf. Siep, *Prakt. Phil.*, pp. 262-264. On page 106, Siep notes that Kant, in *Metaphysische Anfangsgründe der Rechtslehre* §§ 45 and 48, had already based the division of political powers on a practical syllogism. On p. 264 he refers to the interpretations of Hegel's remark by Ottmann (in *Theorie*, p. 390) and Wolff (see above, note 22, pp. 155 and 166 ff.), which he finds unsatisfactory. Siep himself (pp. 256-267) insists on the organic, or even "organicistic" character of Hegel's political philosophy. For an accurate explanation of Hegel's theory of the *Schluß*, see Klaus Düsing, "Syllogistik und Dialektik in Hegels spekulativer Logik," in Dieter Henrich (ed.), *Hegels Wissenschaft der Logik* (Stuttgart: Klett-Cotta, 1986).

(1) the individual or the singular burghers (*Bürgerindividuen*); (2) the physical and spiritual *needs*, whose development produces the civil society; and (3) *right, law*, the *ethical* domain, and the *government*. Apparently, Hegel is not here preoccupied with the first two moments. For the third moment, he even uses society (*Gesellschaft*) and "that universal individual." As one of the moments, "state" cannot mean the totality, and "*Gesellschaft*" certainly does not indicate the *bürgerliche Gesellschaft*. That the state is a "universal individual" is correct, as we will see in the next chapter, but Hegel's use is confusing because it risks obliterating the state's universality. Obviously, the whole range of synonyms he uses here indicates the universal *element* of the state, as it is manifest in right, laws, ethicality, the monarch, the ministers, and the civil servants. The task is then to show that (1) the singular burghers (S), driven by (2) their particular needs and thereby engaged in the socio-economic activities of civil society (P), and (3) the governing *part* of the state, which stands for the universal demands of freedom and right (U), not only unfold themselves, but by doing so, simultaneously promote and unify one another.

The first syllogism sketched in the *Logic* can be formalized as S-U-P: "the *government* is the absolute center [or the middle term], in which the [. . .] singular [burghers] are united with their external existence" (i.e., by being citizens of the state and obeying its laws, they can satisfy their physical and spiritual needs).

In the second syllogism, the individuals (S) are the middle term that mediates between "that universal individual" (i.e., the government [U] as representing the right of the entire community) and the "external" (economic, and social) existence (P) of the state: P-S-U. The state would not survive if the burghers did not engage in the activities of civil society. By pursuing their private interests, the individuals embody their common freedom. Thanks to their activity, ethical life has a material basis.

The third syllogism manifests the mediating role of the system of needs and the institutions that emerge from it within the framework of civil society. Because the private interests of the burghers (S) cannot be satisfied outside of their socioeconomic network (P), it is the latter, which through its own activity unites the individuals with the universal will enacted by the government (U): U-P-S.

The result is a sequence of syllogisms that overlap and, taken together as aspects of one whole, show that each term explains the necessary union not only of the other terms with one another, but also of itself with them:

S-U-P

P-S-U

U-P-S

Through the syllogistic connections with other terms, S (the singular moment of the state: its individuals) is shown to be the beginning or principle (*archē*) and the end or result (*telos*) of a process in which it generates itself. The same can also be shown of every other term, as is obvious when we write the sequence thus:

P-S-U

U-P-S

S-U-P

and U-P-S

S-U-P

P-S-U

“Because the mediation connects [or ‘concludes’] each determination with the other extreme, it [i.e., the terms at issue] connects [‘con-cludes’] itself *ipso facto* with itself, producing itself — and this production is self-preservation” (Enc BC 198R end).

In Enc BC 198R the three syllogisms are the same, but they are given in a different order:

U-P-S

P-S-U

S-U-P

which we can reorder into the following figure:

U-P-S

S-U-P

P-S-U

Thus, in a very formalistic way, we can summarize what Hegel's *Grundlinien* tries to comprehend: the ethical universe (i.e., the idea of the state) is the empirical reality of a perfect concept, in which singular persons in society under the government of their state compose a rigorously coherent, autarchic, and sovereign community.

The Sovereign Nation-State (§§ 320-329)

The last forty sections of the *Grundlinien* (§§ 321-360) develop the idea that the ethical dimension unfolds beyond the single nation-state into world politics (§§ 321-340) and political history (§§ 341-360). Though the book finishes with a triumphant section (§ 360), the last part presents us with a tragedy, for which the only hope is that of a religious and philosophical consolation. In contrast to the expectations that are raised at the beginning of the chapters on *Sittlichkeit* (§§ 142-156) and the State (§§ 257-260), Hegel here shows that the ethical principles hitherto developed condemn the international order to bloodshed, war, and destruction. Nowhere does Hegel hail these horrible forms of negation, but his faith in reason forbids him to think that they are totally senseless. There must be some rationality, and therewith a meaning, in the perpetual recurrence of these phenomena.

For many readers, Hegel's theory of international relations has been a source of indignation, especially since the two World Wars of the twentieth century and many regional slaughterhouses have desecrated the entire earth. However, it is not Hegel's fault that the conclusions of his political philosophy are dismal. If his theory must indeed be understood as a straightforward expression of the political system to which the emergence of the modern nation-state gave birth, it will not be possible to develop a radically different theory, unless we abandon the main postulates of that system.



In § 320, Hegel closes his consideration of the internal organization of the state by returning to the principle of sovereignty put forward at the beginning of his section on the monarchy (§§ 276-277). Against the dispersion of the citizens' contradictory opinions, gathered under the name "public opinion," Hegel reaffirms that the nation's independence and sovereignty presuppose a concrete individual whose will coincides with the universal will of the entire state (§ 320). Over and against the chaotic multitude of contingent opinions, whose extreme diversity is a threat for the national unity, the true singularity is found in the monarch, who, as the head of the state, holds its various elements together and represents it in relation to other states (§§ 271 and 320-321). In this sense, Louis

XIV of France was correct in stating as an undeniable fact, "*L'Etat, c'est moi*," as was Charles de Gaulle when he greeted the people of Chile with the words, "*La France est venue chez vous*."

In conformity with § 260, the first section of "The Internal Right of the State," where he stresses the "ideality" of the state, Hegel announces in § 320 that the following sections will again focus on the state's ideality, but from the perspective of its relations to other states. The fundamental identity of the state's sovereignty with regard to its internal organization and its sovereignty in relation to the external world was affirmed in § 271. After reaffirming the coincidence of the universal will with the singular will of the monarch, Hegel now looks at several consequences of sovereignty. First (in §§ 321-329), he focuses on the internal consequences of the nation's external relations for the citizens of a single state (although he cannot avoid at the same time anticipating the phenomenon of war between states). From § 330 on, however, he will concentrate on the external relations. Section 320 forms an *inclusion* with § 271. Both sections, one at the beginning of "The Internal Constitution for Itself" (§ 271) and one at the end (§ 320), focus on the unity and individuality of the people, which according to §§ 273 and 275 ff. is realized in the unifying power of the monarch, thus rounding off Hegel's treatise on the state as the unity of interconnected institutions, before proceeding to a consideration of international affairs. The transition from the single state to the relations between multiple states comprises ten sections (§§ 321-329), the last of which (§ 329) restates the sovereign power of the monarch, thus connecting with § 320 and § 271, as the following schema illustrates:

The Internal Right of the State (260-329)

Division (271): The state in relation [I] to itself (272-320) and [II] to other states (321-329)

I. The Constitution (272-320)

a. *The power of the monarch* (275-286)

b. The power of government (287-297)

c. The legislative power (298-319)

The true singular subjectivity of the monarch (320)

II. The External Right of the State (321-329)

The power of the monarch (329)

It is understandable that Hegel, having emphasized the destructive contradictions of public opinion in §§ 315-319, contrasts this with the "ideality" of the all-encompassing function of the crown; it does come as a surprise however, when he states that the "ideality of the whole has not yet come to its right and reality (*Dasein*) in the preceding sections" (§ 320). In § 325, Hegel corrects the sentence just quoted by distinguishing the ideality clarified in §§ 321-329 as one of its aspects, namely, that according to which the negative moment of the idea overshadows the positive moment. The ideality of the state with regard to itself is the organic unity of its internal differentiation. The subordination of its elements has a negative aspect: their tendency to weaken the overall unity by insisting on their particular interests. This negation becomes manifest when the citizens are called upon to defend the existence of their nation against external threats. In risking their lives, they share in the negative moment of the state's sovereignty.

In § 271, Hegel has already announced and justified the division of his political philosophy into two parts by distinguishing between (1) the self-organization of the state, unfolded in §§ 272-319, and (2) its sovereign autonomy *vis-à-vis* other states, explained in §§ 320-329. The relationship between these moments of the state's ideality is expressed in the thesis that the state "posits the *ideality* [and thus the subordination] of its inward differences." This "positing" consists in the external realization or *exteriorization* of the "ideal" structure that rules the state's *internal* constitution. The negative connotation of "ideality" in § 271 and § 320 is the flipside of a more neutral and encompassing ideality found in §§ 321, 325 and 324R, where we read the following:

[. . .] the ideality that comes to the fore in war, as in a contingent external relation, is the same as the ideality according to which the internal powers of the state are organic moments of the whole (§ 324R).

It is this basic identity of the state *as idea* that Hegel wants to stress. If he is right, the essential phenomena of international law and politics are nothing other than the necessary exteriorization of the state's internal structure. What occurs on the level of international affairs expresses the very necessity of the internal organization of the related nations. The recurrence of wars is thus the external

Dasein of the internal negation that binds all the moments of the state together; wars are inevitable consequences of the modern states' essential structure.

Not only does Hegel show that certain phenomena of the international order (or disorder) are consequences of the way in which nations are constituted; he also attempts to deduce the plurality of states from the concept of a single state. His argument retrieves the logic of *Dasein*: something can "be there" for itself (*für sich*) only as excluding, and thereby relating to, another *Dasein*; "being for itself" is necessarily "being for [something] other" (*für Anderes*). The same logic governed the transition from personality to contract, as we saw in Chapter Four. In § 71, Hegel argued that a person, as *Dasein* of a singular will, must be recognized as such by another singular will.⁸⁰ As idea, the state is an "absolute" (and thus a double) negation of itself, a circle enclosed upon itself; but this closure must exclude other instances of the same essence. By excluding others, the state realizes and manifests its individuality in the form of a living individual: the sovereign (§ 321; cf. Enc A 50). Hegel does not take for granted a multiplicity of states as if an empirical fact were solid enough to build a theory of international relations upon. He deduces the existence of relations between more than one state — and therewith specific relations between singular states — from the logically necessary constitution of "the state" (§§ 321- 322).⁸¹ He explicitly stresses the parallel between the argument of §§ 321-322 and the argumentation just summarized, when he writes,

⁸⁰ Pp. 265-266. See also § 112 and my commentary on pp. 335-337. Although Hegel tries to do justice to the principle of subjectivity by emphasizing the relative independence of civil society, the fundamental rights of individuals are not guaranteed. Administration of and obedience to the laws, e.g., by civil servants, is controlled by the government and there is no place for a constitutional court. The king may intervene in the judiciary (§ 295) and in general the right of the state is "higher" than the rights of individuals (cf. § 30 & R). In GrI 258 Hegel states that the state possesses "the highest right against the singular" (citizens) because in it, freedom reaches "its highest right." This seems to contradict § 30R, where "only the right of the world spirit" is declared to be "unlimitedly absolute" (cf. also § 33 [Cc]), unless one wants to stress that the world spirit has no relations whatever with singular individuals, but only with states. See also GrI 126R, 279, 281, 284; 323-325; Wa 11; and *Sieph, Prakt. Phil.*, pp. 272-274.

⁸¹ For the transition from "being-for-itself" and "individuality" to "a being for itself" or "individual," see Enc A 49.

The state can no more be an actual individual without relation to other states (§ 322) than the individual can be an actual person without relation to other persons (§ 71 and elsewhere) (§ 331).

The parallel between individual persons and individual states is continued when Hegel explains (in § 322) that the state's "being-for-itself" and its full independence among the multitude of states is "the first freedom and the highest honor of a people." Similar to the person, whose fundamental freedom resides in being a self, deserving respect and possessing property as a manifestation of his being-for-himself, the state, likewise, must be honored because it is an autonomous individual.

A utilitarian explanation of political phenomena ignores the difference between state and civil society (§§ 324R and 326R). For example, the personal sacrifices that are demanded by a state in great danger cannot be justified as means to secure the lives and property of the citizens, because these sacrifices are the exact opposite of safety (§ 324R). The only rational ground for warfare is patriotic commitment to the free existence of the national community. Even in primitive nations, clans, or tribes, collective freedom and independence are fundamental and all-important. If a political community is not sick or degenerate, its "people has its self-feeling (*Selbstgefühl*) in its independence" (§ 322R). Citizens feel good when the nation as a whole can determine its own life and that of its citizens; consequently, they feel dishonored and shameful if their country is annexed, colonized, or enslaved by another nation. When they lose their political freedom, individuals lose also their personal freedom (and consequently the security of their property), unless they or their children are transformed into citizens of the conquering state. The realization of the state's individual independence in the figure of the monarch is the guarantee for the basic freedom of all the citizens. Without union with the head of an undivided state, no singular citizen can be fully free.

If no one can be free without being a citizen of a free state, the greatest sacrifices are justified and obligatory for the defense of their free existence. When the freedom of the nation is threatened, individuals must be willing to die for the sake of the highest right and honor, which is simultaneously common and personal. Indeed, freedom and honor are worth more than life

and property. Those who prefer the latter are cowards and virtual slaves (§ 324).

The sacrifice of one's private interests and rights for the survival of the state is a sacrifice for one's own most basic or "substantial," "in and for itself real" freedom. Once citizens recognize this, they understand that it is their duty to sacrifice their property and life, if necessary, and even to swallow their political criticisms in order to maintain the state's sovereignty (§ 324). Since they owe their freedom to their citizenship, their sacrifices have a positive core; the loss of some private rights, and possibly their own life, is the negative side of their subordination to the nation's totality (or "ideality"). The violence inherent in conflicts between nations is more than a contingent empirical fact; it follows from the difference between the ethical substance (the universal, substantial, infinite will of the totality) and the accidents (the singular citizens whose life, property, and rights are only particular and finite ends). The international scene, as the necessary unfolding of the rational state's constitution, necessarily gives way to war, as Hegel explains in §§ 330-340. Such wars are not entirely senseless, for they are the — albeit harsh and deadly — actualization of the distinction between the political substance and its accidents. We hear many sermons about the finite, contingent, corruptible, and mortal character of life and earthly goods, but do we pay attention to the truth they announce? War takes that truth more seriously than do most individuals. By stirring the silent waters of everyday civil life, it forces the citizens to concentrate on the core of true freedom by preferring it to individual happiness (§ 324R).

It is a logical principle that the concept of the contingent must be actualized as such.⁸² The contingency of the contingent *must*, therefore, be manifested *as contingency*. This "must" expresses the necessity of the actually contingent. If property and individual lives are accidental, finite, and contingent, these qualifications must be manifested in the real world. Nature does this, for example, by allowing all plants and animals to die. War is not a fact of nature, but a phenomenon of ethical objectification; however, its destruction, likewise, is both contingent and necessary. The spirit raises natural mortality to a higher level by transforming it into the

⁸² GrI 324R. Cf. GW 11, pp. 383-384.

expression of full dedication to freedom. To die for the sake of one's country is rewarded with the highest honor because it is the fulfillment of a basic duty. In war, one can demonstrate what matters most in politics; by choosing national freedom over temporal goods, one testifies to the vanity of the latter and the infinity of the former (§ 324R).⁸³

⁸³ In light of the positive meaning that Hegel discovers in the "slaughterhouse" of war, his quote from his own early article "The Scientific Ways of Treating Natural Law" (1802) becomes understandable: the meaning of war lies in the fact that "the ethical health of the nations is preserved in their indifference toward the fixation of finite determinations, similar to the movement of the winds that protect the sea from pollution, which constant rest would cause, just as a durable, or even a perpetual peace would do" (GW 4, p. 450). Similar statements are found in the *Phenomenology* of 1807 (GW 9, p. 246), Ilt 3, pp. 829-831, and 4, p. 733. Claudio Cesa notes in "Il cammino dell' eticità: Dall' età dei Lumi a Hegel" (*Fondamenti* 9 [1987]: 35), that similar expressions had been used before Hegel by Montesquieu (*Esprit des lois* VIII, 5: "The more security these states have, the more they are, like waters that are too calm, in danger of corruption"), Plato (*Theaetetus*, 153C: "I should talk about still weather and calm seas and so on to point out that rest corrupts and destroys, whereas the contrary saves"), and Herder (*Ideen* IX, 1: "The noble plant [of *Bildung*] could grow only in thunderstorms [. . .] The mechanism of revolution no longer misleads me: it is necessary for our generation, just as the waves [are necessary] for the river to prevent its changing water into a dead marsh"). In "Consideraciones sobre la teoría hegeliana de la guerra" (translation of his *Hegel filósofo político*) in Gabriel Amengual (ed.), *Estudios sobre la "Filosofía del Derecho" de Hegel* (Madrid: Centro de Estudios Constitucionales, 1989), pp. 319-347, Cesa points out that Hegel's treatment of war echoes much of what the contemporary manuals of natural law declared (pp. 326-327, 340). For secondary literature on Hegel and war, see Cesa's note 16 (p. 328); Adriaan Peperzak, "Hegel contra Hegel in His Philosophy of Right: The Contradictions of International Politics," in *Journal of the History of Philosophy* 32 (1994): 241-263 (with bibliographical references in note 1 on pp. 241-242); Kenneth Schmitz, "Hegel on War and Peace," in Venant Cauchy (ed.), *Conceptions de la paix dans l'histoire de la philosophie. Conceptions of Peace in the History of Philosophy* (Montreal: Montmorency, 1987), pp. 127-140; and Thomas Mertens, "Hegel's Homage to Kant's Perpetual Peace: An Analysis of Hegel's *Philosophy of Right* §§ 321-340," in *The Review of Politics* 57 (1995): 665-691. Steven B. Smith, in "Hegel's Views on War, the State, and International Relations," in *The American Political Science Review* 77 (1983): 624-632, rightly shows that Hegel's conception of war is the direct consequence of his subordination of civil society to the state; however, Smith's rendering of the state's essence and goal is not Hegelian, but liberal. The idea of freedom, as actualized in the state, is not sufficiently captured by "a community of persons united around some conception of the good life" (p. 627) or "common values and commitments" (p. 628) or "the purpose of a common ideal" (p. 628) or "some more abstract 'cause' or ideal in which the self becomes lost" (p. 629). The "universal" (p. 629) and the "higher principle of right" embodied by the state does not coincide with "the idea of mutual respect for persons as such" (p. 631; this is rather the principle of *abstract* right and civil society), and therefore it is

In his attempt to discover a meaning in the wars between nations, Hegel does not justify any particular war, nor does he dwell on the specific conditions under which a war might be justifiable (see §§ 337 ff). In §§ 323-324, he “*only*” explains “a philosophical idea,” and his explanation of the factual recurrence of wars, which seems to contradict the goodness of the Creator, proposes only a general “justification of *Providence*” (§ 324R).

The relation between the internal and the external aspects of the state’s ideality parallels the relation between the (logical) Idea and Nature, or the relation between subjective and objective spirit. In all these relations, it is the inner core that expresses itself in a specific spatiotemporality. The last part of the *Grundlinien* contains a new transition from inner ideality to an exterior, multiple, and dispersed — and in this sense “natural” — dimension. Following his exposition of the nation-state, whose well-contained totality is the center and summit of the book, Hegel shows how this concretization of the spirit falls apart by becoming one among several players on a higher-level, “state of nature”; human reason is unable to entirely overcome political violence because the objectification of spirit does not permit a world-encompassing state or judge. Sections 321-329 anticipate the last transition within the realm of right, but they restrict themselves to the question of the significance of the ultimate dimension of objective spirit for the internal affairs of the nation-state.

Although collective freedom, according to Hegel, is infinitely more valuable than private lives, there are only two situations in which the state can impose death or the risk of death on its citizens. The first, internal situation is the execution of a murderer; the second is the state of war, which, in principle, should be a state of defense. The relationship between death — or, in general, all negativity — and positive freedom should always be clear. Arbitrary sacrifices or the risking of people’s lives for frivolous reasons, like a king’s megalomania, cannot be justified. If it were possible to determine whether a war is only defensive or a war of conquest,

not true that “the triumph of reason [. . .] will represent the final triumph of bourgeois civil society with its pacific and commercial interests, over the political state,” as Smith concludes, or that this “idea of an end of history,” which he attributes to Hegel, “undercuts” Hegel’s “insistence on the necessity of war” (p. 631).

the rule should be that only defensive wars are rational, whereas aggression is forbidden due to the respect owed to other states' sovereignty.⁸⁴

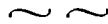
In § 325-326, Hegel attempts to deduce the military as a particular "estate of courage," but he maintains that the defense of the state in critical circumstances is a universal duty, and that *all* citizens must defend the nation's independence when it is endangered.⁸⁵ He provides two reasons for the existence of a particular class of military persons. First, because the issue here concerns only one aspect of the state's ideality, it requires a particular group of people to attend to it (§ 325). Second, conflicts between states often concern only particular aspects of their relations (§ 326 & R). The first reason seems to me more convincing than the second. If the various functions of the state must be accomplished by particular institutions, it seems plausible that the relations of the nation to the exterior world should likewise be entrusted to a special institution whose employees are correspondingly skilled. This principle would justify, for example, a foreign office and a diplomatic service, hardly mentioned by Hegel, except in the immediate context of war (e.g., § 329). Instead, he focuses on the consequences of the military organization for the internal relations of the state.

As a kind of corollary (§§ 327-328), Hegel insists on the purely "formal" character of courage. Perhaps his intention was to implicitly criticize the proud self-awareness of the Prussian officers by stating that courage as such, though demonstrating detachment from possessions, pleasure, and even life, is neither good nor bad. Many thieves and murderers display courage, but its value depends on the ends that are pursued. As total devotion to the ends of the state, this virtue is an almost schizophrenic mixture of characteristics, not a model of human harmony. On the one hand, courage actualizes real freedom through total identification with the sovereign national spirit; on the other hand, this dedication is accomplished through total obedience, abandonment of one's

⁸⁴ According to § 326, a defensive war is transformed into a war of conquest when the entire state is in such danger that all citizens must be called to military service. Hegel does not say that this transformation is good or right but he seems to see it as inevitable in certain circumstances.

⁸⁵ See also *Ilt* 3, p. 830; 4, p. 736.

own opinions, mechanical execution of commands from above, and hostility toward citizens of another nation that one has no reason to personally hate. The symbol of this mixture of attitudes is the modern gun.⁸⁶ Without any *corps-à-corps* or face- to-face, two objective totalities fight through depersonalized soldiers against each other's autonomy. Anonymity has replaced all personal, legal, familial and social relationships on the international scene. Service in the military condemns the soldier to a split life: besides his personal life, he lives the existence of an anonymous killer, whose entire responsibility lies in the will of the king (§§ 327-329).



To facilitate an insight into the structure of Hegel's chapter on the state, and especially into the function of its last ten sections, the following schema might be helpful:

The Internal Right of the State (§§ 260-329), i.e., the state's internal ideality (cf. § 266 and § 271)

270-320	I. Internal Constitution
275-286	1. <i>The Monarch</i>
287-297	2. The Government
298-319	3. The Legislative and Public Opinion
320	<i>The Sovereign</i>
321-329	II. The Sovereign State's Demands <i>Vis-à-Vis</i> the Citizens for Its Defense
321-323	- The State's External Ideality
324-326	Duties of the Citizens
327-328	Corollary on Courage
329	- <i>The Monarch as Sovereign</i>

⁸⁶ GrI 328R. Cf. Ilt 4, p. 738.

CHAPTER ELEVEN

INTERNATIONAL POLITICS

The International Order (§§ 330-333)

In the first four sections of his analysis of international law and (dis)order, Hegel surprises his reader by providing the clearest possible statement about the fundamental function of *Sollen* and *contractuality* that any contractarian could hope for. Because “the external right of the state [cf. § 259] is based on the relation of independent states [. . .] it takes the form of a *Sollen*” (§ 330). The state’s “primary absolute right [or entitlement, *Berechtigung*] is [. . .] to be recognized [as an absolute and sovereign power] by any other state” (§ 331). “The immediate actuality of states with regard to one another [. . .] has the formal nature of a contract (*Verträge*, § 332). “The basic principle ruling the *right of peoples vis-à-vis* one another” is “the universal right, which in and for itself ought (*soll*) to be valid between states; [. . .] it states that treaties [. . .] ought (*soll*) to be kept. [. . .] This universal determination remains [. . .] an [abstract] *Sollen* only [§ 333].”

The sudden emphasis on *Sollen* does not introduce a new category: from the outset, Hegel has defined right as free will insofar as it *ought* to be respected. That this right be effectively actualized is a *demand* of its very concept. As rational, the concept cannot but realize and express itself in the actuality of free persons, contracts, conscientious behavior, love, civil society, the state, and so on. Insofar as human subjects are involved in this actualization of freedom, its concept demands that they cooperate in procuring its concrete existence. Right obliges: a duty corresponds to every right.

Rights and obligations remain abstract and unrealized when they have not become objective in the form of actions and institutions. But such a situation cannot last forever if Reason or Spirit is indeed worthy of our faith and strong enough to incarnate itself in the form of a rational world. Hegel’s *Rechtsphilosophie* shows how

the abstract definition of free will and right is progressively transformed into a concrete cosmos in which law, family life, economics, social structures, and the political institutions of the nation-state form a hierarchically-ordered pyramid. International politics, however, does not fit into this cosmos; it cannot concretize its concept in objective institutions that are as perfectly rational as those analyzed in the preceding chapters. Why is this the case? The answer lies in the first sentence of § 330: if the basis of international right is "the relation between [absolutely] independent [or sovereign] states," this basis involves a contradiction: either the relation must be given up, or the absolute sovereignty must be relativized. As an individual, a state is one among many states, but *absolute* independence simultaneously includes and precludes the existence of other independent states. Here right seems to have become a manifold of conflicting claims without institutions to mediate between them.

All nations must demand recognition of their sovereignty, but this recognition can only be realized in the form of treaties, which have the same structure as contracts (§ 72 ff.). Indeed, treaties are constituted by two or more singular wills that agree on specific matters, except that the participating subjects are now individual sovereigns who personify their states (§ 330). The "actuality" (or pseudo-actuality, as will become apparent) of international relations lies in freely chosen agreements between atomistic subjects that are not and, according to Hegel, *cannot* be parts or members of a higher union or community. Anticipating one conclusion of the forthcoming analysis, we might state that, in the strong sense of Hegel's actuality (i.e., in the sense of a fully rational or "ideal" reality) humanity as such and as a whole cannot have legal, moral, ethical, or political actuality. Instead, *humanity, taken in its ethical and political sense, is a contradictory and transitional figure between the dimension of "right," which culminates in a variety of nationalistic politics, and the truly universal dimension of religion and philosophy.*¹

¹ Neither the *Hegel-Lexikon* nor the *Register* offer entries like *Menschheit*, but they do have many entries about "das menschliche Leben," "der Mensch," or "die Menschen." The international situation is, *mutatis mutandis*, described in § 86 (cf. §§ 330, 331, and 333). Its primitive, uncivilized character is obvious if § 96 & R (on Draconian legislation) and § 102 (on vengeance) are compared with §§ 334-336.

One cannot read § 330 ff. without being struck by the parallelism between Hegel's conceptual analysis of the sequence *personality* — *property* — *contract*, given in the chapter on abstract right (§ 34 ff.), and his exposition of the sequence *individual sovereign state* — *well-being of the state* (§ 336) — *treaties* (§ 332). The differences between the two sequences lie in (1) the contrast between personal individuality and national identity as represented by the monarch, and (2) the fact that the contract between singular persons, as a problematic solution to their opposition, is integrated into the communitarian structures of the family and the state, while the contractual structure of international relations does not find a solution within the horizon of Hegel's conception of right and *Sittlichkeit*. The first difference (1) is not due to any logical distinction: though the state is a community, as one singular and sovereign body politic it is an autarkic individual with a singular will. Both parties are thus monadic individuals that seek to overcome their separation by making an agreement. Hegel's insistence that the monarch is the only possible actualization of the state's individuality (§§ 320-321) here precludes any relevant difference between a private person's individuality and the collective individuality of the state. What then causes the second difference (2) in the outcome of the analysis? Does Hegel's logic prove that union and community are *impossible* on the international level? If so, which factor is responsible for this impossibility? If his consideration only illuminates the *factual plurality of states* but not the impossibility of an overall ethical community as comprehensive as humanity, his book is a philosophical failure. By giving in to a logically unjustified positivism, he would not be true to his own principles. Instead of a "speculative" justification, he would be giving a historicist description of the facts. Before accusing him of such a sin against philosophy, however, we must examine the argument presented in §§ 331-339.

Hegel begins by resuming his theory of the state:

The people, as a state, is the spirit in its substantial rationality and immediate actuality; [it is] therefore the absolute power on the earth (§ 331).

The emphasis on the word "earth" implies an opposition between this *immediate*, *objective*, and *substantial* actualization of the spirit

and its "heavenly," *mediated*, and *subjective* existence, i.e., the spirit in its *absolute* actualization as religion and philosophy. Whereas the objective spirit, as "second nature," is a realm of particular nations, the world spirit creates the entire world and, as providence (cf. § 324R), rules the destinies of all nations.² Related as sovereign powers, the nations are autarkic and absolute actualizations of freedom. Their right is a claim to recognition: each *ought to* (*Sollen*) recognize the other's sovereign freedom.

According to Hegel, this right is formal and abstract: "in itself" (*an sich*) or according to its concept, each state must be recognized as absolutely sovereign and independent, but a state can fall short of its concept. If its constitution or situation is such that it does not adequately reveal the kind of reality demanded by its concept, other states will not recognize it as a true state. Hegel does not clarify whether, in these cases, the right still *should* be recognized, but we might answer this question by applying to states what Hegel, in § 57, said about slavery.³ As we saw before, every human being must be respected as a person, but only those who have taken possession of themselves, refusing to serve as slaves, are able to claim this right. Similarly, in § 331R, Hegel seems to say that a state that has not really actualized the necessary legal, social, and political institutions is empty and unreal. It cannot be recognized as a true state. The claim to recognition depends, therefore, on the degree to which the idea of the state is actualized.

Recognition of another state's sovereignty requires that our nation not interfere in the other's internal affairs. However, certain factors of national politics, for example, the amassing of an enormous army, economic disasters, or lack of raw materials, are relevant to the question of whether another state is a threat to our nation. Therefore, we cannot be indifferent to the internal affairs of another state, and, if necessary, we must prepare a strategy against a possible attack (§ 331R).

² Herein lies the core of the difference between the objective (still quasi-natural, finite, and manifold) spirit and the absolute spirit as manifested in the completely spiritual dimension of religion and philosophy.

³ GrI 57, 336 and above (Chapter Four). Cf. Ilt 3, p. 834: "A civilized state cannot recognize a horde [i.e., an unorganized tribe]. The content of both [the related] states is here essential [. . .] The content hinders the merely formal recognition."

The right to respect that belongs to singular persons as explained in Hegel's first chapter (§ 36), resulted in contractual dealings within the framework of civil society, but these necessitated an overarching community on the level of the entire nation state. Does the international scene show a parallel dialectic? Hegel scarcely pays attention to the economic and social aspects of the international scene — international private law is strangely absent from his book⁴ — but he does compare the political relations among nations with the contractual structures of civil society. Similar to singular persons whose independent *Willkür* creates contracts, the states arbitrarily establish treaties regarding their mutual demands and behavior (§ 332). There is, however, an important difference: the burghers of the civil society are utterly dependent upon one another because of their mutual needs, "whereas independent states are largely totalities that satisfy themselves within themselves" (§ 332). It is surprising that Hegel adheres here to the illusion that singular nations can provide themselves with sufficient economic goods to secure their own well-being — in contrast with §§ 243-248, but in accordance with the Aristotelian concept of the *polis* as a "complete society."⁵ It is all the more surprising because, in §§ 322 and 331R, he sketches an argument showing that a state, just as a person (cf. § 71 and above p. 568), cannot exist as "actual individuum without relations to other states" (§ 331R). But if a multiplicity of states and contractual relations between them are implied in the actuality of one individual state and if the various states have their own material and cultural needs, just as individual persons (§ 189 ff.), an interstatal "system of needs," i.e., an international society of economically interdependent nations, seems to be the conclusion

⁴ However, his description of the civil society's system of needs does not contain any element that would necessarily confine it to a particular part of humanity. Even Hegel's deduction of the judiciary, the *Polizei* and the corporations does not necessarily exclude a worldwide extension. The international and world-encompassing aspect of the economy and its "market" remains mainly implicit, and where it is made explicit (e.g., §§ 246-248) the perspective is national: how can our nation export its surplus, while acquiring the needed commodities, and what are the advantages of colonization?

⁵ The premodern definition of the political community as a *societas perfecta* refers to Aristotle's *Politics* 1252b27 ff.: the *polis*, as *koinōnia teleios*, is characterized by *autarkeia*. Cf. Plato, *Politeia*, 369d and 371b; Aristotle, *Nicomachean Ethics*, 1097b14 and 1160a21; *Politics*, 1278b21, 1280b34, 1329b27, and 1326b4.

that Hegel should have derived from his own principles. And because such a world society cannot do without some political form of unity, just as the civil society of one nation cannot subsist without a political framework, some political community of different nations seems inevitable.⁶ Is it Hegel's nationalism or a kind of positivism that keeps him from acknowledging the necessity and the growing importance of the world market? He probably could not foresee the extent to which the world economy would dominate the politics of later times, but even so, he should have given a more convincing argument for his thesis. Instead of indicating an *essential* difference between social relations within a single nation, on the one hand, and relations among different nations, on the other, he points to a quantitative difference: "the *matter* (*der Stoff*) of these [international] contracts is [. . .] infinitely less manifold than in civil society" (§ 332). Why does Hegel insist on the difference between singular individuals and singular nations? While it may be easily integrated into a theory that rejects any kind of cosmopolitanism, an "infinitely" (?) larger or smaller amount of commodities does not constitute another essence or conceptual structure. The multiplicity of contractual relations in the civil society led more or less spontaneously to the establishment of associations in the form of different classes and corporations. Since alliances among states are equally possible, even if they might not be absolutely necessary, should we not try to deduce at least their possibility or desirability as a condition of the international scene? Do the contractual relations between states perhaps even necessarily yield a higher unity similar to the political unity into which the multiplicity of civil society was sublated? Hegel's answer is a clear No. But does he prove this answer? And

⁶ Cf. Ardis B. Collins: "Autonomy and Community" (a review of *Treaty, Conflict, and Political Contradiction: The Dialectic of Duplicity*, by Guyora Binder [New York: Praeger, 1988]), in *Cardozo Law Review* 10 (1989): 1887-1931. Here Collins discusses Hegel's conception of international relations in the context of twentieth-century problems of international treatise theory. See especially her conclusions on pp. 1922, 1926, and 1929-1931. For further discussion and secondary literature, see my "Hegel contra Hegel in his Philosophy of Right: The Contradictions of International Politics," in *Journal of the History of Philosophy* 32 (1994): 241-264; and Ludwig Siep, "Das Recht als Ziel der Geschichte," in Christel Fricke (ed.), *Das Recht der Vernunft: Kant und Hegel über Denken, Erkennen und Handeln* (Spekulation und Erfahrung II, 37), Stuttgart, Frommann-Holzboog, 1995, pp. 335-379.

why does he not analyze the political fact that nations have always formed alliances with other nations?⁷

The core of his argument lies in the observation that the "rights [of the nations] do not have their actuality in a universal will that is constituted as a might over them" (§ 333). The *Sollen* entailed in the "right of nations" (*Völkerrecht, jus gentium*) remains *abstract*: mutual recognition is demanded by each nation's sovereignty, but no power can guarantee the actualization of this right. The freely engaged contractual relations, sealed in international treaties, are backed by that *Sollen* in the same way that the validity of contracts between persons is backed by the principle that persons ought to respect one another: *pacta sunt servanda* (pacts must be kept, § 333). But the realization of this command is completely left to the free choice of the parties involved. The lowest level of right, i.e., the level of abstract, contractual, but not guaranteed right, returns on the highest level of *Sittlichkeit*. Contract and mutual obligation are the last words about right. Or is there perhaps a higher right in history (cf. §§ 340-360)?

For a correct interpretation of Hegel's theory of international politics, it is crucial to understand his thesis that no universal will beyond the nation-state can actualize the demand for worldwide justice or civility. But does he only state a naked *fact* or rather a conceptual necessity? Section 333 presents the following deduction:

Because [my emphasis] the principle of the relation between states lies in their sovereignty, they are in a state of nature with regard to one another and their rights do not have their actuality in a universal will that is constituted as a might over them, but [only] in their particular wills.

⁷ In his courses, Hegel briefly mentions the "Holy Alliance" of European nations, but he minimizes its significance by insisting on the sovereignty of singular states (Ilt 4, p. 735). It is not clear how this atomistic individualism can be reconciled with the idea implied in the following sentence: "When [. . .] a number of states makes itself into a family, this union, as individuality, must create for itself an opposition, an enemy, and those who are opposed in the Holy Alliance can be the Turks or the Americans" (Ilt 3, p. 735). In GrI 339Z Hegel observes that "the European nations form a family on the basis of the general principles of their legislation, *mores*, and culture, and that accordingly their behavior with regard to international law, in a situation in which the mutual infliction of harm would otherwise dominate, is transforming itself," but he does not link this description with any consideration of possible or necessary institutions.

National sovereignty, deduced as one of the *necessary conditions* of ethical life, is also declared to be the *necessary cause* of a higher-level state of nature, i.e., of *unfreedom* and *injustice*. The factual atomism of states is interpreted as a necessity; it follows from their sovereignty that they are, and cannot but behave as, "absolute might on the earth" (§ 331).

The same interpretation is found in the following passages from Hegel's courses:

With regard to private persons, the situation is such that they have a tribunal above themselves, which realizes what in itself is right. The relation between states certainly ought to be right *an sich*, but in the reality of the world, that which is *an sich* ought also to have power [. . .] but that is all; there is no power that decides what is right in itself and actualizes this decision. This is the basic determination of the relation between independent states. It is properly a relation between independent entities that stipulate among themselves, but at the same time remain above these stipulations. And this breach of treaties is nothing immoral, because the eternal peace is only an ought (*ein Sollen*) and in the ought lies non-being (Ilt. 3, p. 833).

With regard to the right of relations between states, this right is very imperfect [. . .]. States are independent individuals that cannot recognize anything above them. They can make treaties and these ought to be kept, but this is only an ought, not an actuality. The actuality of this ought lies only within the state [itself]; only there, that which is in accordance with the nature of freedom is a necessity (Ilt. 4, p. 740).

In his lessons on practical philosophy at the Nürnberg gymnasium (1811 and later), Hegel formulated it in the following way:

The states find themselves in a natural rather than a juridical relation to each other. They are therefore in continual conflict; this leads to treaties through which they create a juridical relation among themselves. On the other hand, they are completely autarkic and independent. Right is therefore not actual among them. Thus, they can arbitrarily breach the treaties and must always be mutually suspicious. As natural entities, the states are related through violence, because they must safeguard their own right and conquer justice for themselves, and thus they get into *war* with each other (Su, pp. 250-251).

In the chapter on abstract right we learned that individual persons are independent subjects and that property is essentially and necessarily private. Further developments have shown that

personal freedom ought to be and necessarily is subordinate to and integrated into a higher dimension, because it is only a singular moment of concrete freedom, which cannot be real outside the political organization of a national community. Why can we not apply the same logic to individual nations that confront one another on the international scene? Does it not follow from Hegel's logic that conflicting individuals necessarily form moments of an encompassing totality? If individual citizens are "accidents" of the state's "substance," why can't states be components of humanity? Why is nationalism, and not cosmopolitanism, the last word in politics? The answer cannot be that there is no supranational power or right, because this would be a shameless surrender to the worst positivism and a complete betrayal of philosophy.⁸ Neither will it do to refute Kant's thoughts about a perpetual peace as a moralistic illusion by developing the argument that such a peace remains dependent on the good will of the states involved, and therewith on contingency. We must have a positive argument for why national sovereignty is the utmost of all rights "on the earth" (§ 331). Have not freedom and right been defined as *universal* ideas?

Nothing in the initial definitions restricts freedom, right, or respectability to *national* categories. The unjustified introduction of the people in § 156 and the silent identification of the perfect community with the nations have destroyed the worldwide horizon that was announced in Hegel's philosophy of subjective spirit. The idea of one human community has no *objective* reality in his system. The "world" of freedom and right is fragmented in the particular "worlds" of nations whose unrestricted claim to absolute sovereignty creates perpetual competition and hostility. *Humanity lives in a state of nature and there is no ethical way out of it.* If Hegel were correct in stating that "we must get out of the state of nature,"⁹ how then can we escape this world-wide disaster?

⁸ On this point I side with Steven B. Smith against Avineri. See Smith's "Hegel's Views on War, the State, and Internal Relations," in *The American Political Science Review* 77 (1983): 624-632. In his otherwise valuable article, "Hegel on War and Peace" in Venant Cauchy (ed.), *Conceptions of Peace in the History of Philosophy*, Montréal, Montmorency, 1987, pp. 127-140, Kenneth Schmitz incorrectly agrees with Avineri's thesis that Hegel does not accept the distinction between just and unjust wars.

⁹ The ninth thesis that Hegel presented in 1801 at the occasion of his *Habilitation* at the university of Jena, paradoxically affirms: "*Status naturae non est*

It sounds like a factual statement when Hegel declares: "There is no praetor, but at most [there are] arbiters or mediators between states, and the latter [exist] only contingently, i.e., through [the intervention of] particular wills" (§ 333R). Hegel does not present this fact as a scandal or an anomaly that could prompt doubts about his nationalism. Cases of freely chosen mediations in international affairs occur, but these depend on the contingent decisions of the parties involved. An institutional solution of international conflicts is not available. The hope for a perduring peace remains abstract and powerless against arbitrary violence.

Commentators who insist on Hegel's presumed hostility toward the *Sollen* are tempted to explain his rejection of cosmopolitanism as a rational exclusion of illusory solutions. Did Hegel himself not state that philosophy tries to comprehend the rationality of the actual world instead of indulging in utopian demands? As I have tried to show, Hegel has no desire to suppress the authentic phenomenon of *Sollen* in any of its appearances. As a fundamental category, it belongs to the logic and it recurs on all levels of the spirit's actualizations. Making it into an absolute, however, would be to misjudge the strength of the spirit, which *in the end* always realizes its essential rationality. Just as despair is a sin against faith in God's providence, Hegel's secularized faith in the Spirit condemns the opinion that the universe contains fundamental fractures. Reason is worthy of our faith because it is strong enough to realize its own demands. As for the *Sollen*, only a *Sollen* that can *never* and *nowhere* be realized is irrational. Nobody, however, can predict *when* the realization of all rational demands and predictions will take place.

We have seen enough examples of Hegel's unrealized demands and institutions that *ought to exist* (but do not) to reject the

injustus et eam ob causam ex illo exeundum" (Su 4, p. 533). (The state of nature is not unjust [but — as natural and pre-civilized — not just either]; therefore one must quit it.) In Grl 324R, Hegel emphasizes that the natural violence (*Naturgewalt*) of the *status naturalis* is sublated and integrated in the spiritual and *quasi-natural freedom* of the state; but that same violence breaks out of its boundaries as soon as the states multiply. War is thus a natural phenomenon that threatens to overpower human civilization, but it is also the possibility of showing that the life of the spirit is worth more than the preservation of natural and un-free satisfactions. Cf. Cesa, art. cit. in *Estudios sobre la "Filosofía del Derecho"* (see Chapter Ten, note 83), p. 332 and 344.

opinion that he would only analyze factual phenomena. Possibly, or rather probably, Hegel found the idea of a worldwide organization of successful ethical life outrageously utopian; nonetheless, he ought to have remained faithful to the logic that rules his chapter on abstract right. If, according to the fundamental principle of freedom and right, states ought to respect one another, and if this respect cannot be realized when the states are *absolutely* independent, then the only solution lies in the subordination of the nations to a higher form of freedom, i.e., the integration of individual states into an *ethical* organization of humankind.

Hegel does in a sense follow this argument, except that he neither postulates nor deduces the sublation of nationalism in an *objective* formation of the entire human race, but rather in a historical civilization whose final reconciliation is found in the practice of aesthetic, religious, and scientific *contemplation*.

War (§§ 334-339)

Since sovereign nations cannot be judged by a higher institution, Hegel concludes in § 334 that differences between their particular wills can be resolved only by the forceful realization of their contradictions. War is the necessary outcome of the contingent fact that sovereign states, with regard to one another, are particular wills that — according to Hegel's unproved supposition — cannot be gathered in a higher ethical *will*. (As we will see, the highest *will* is the spirit as it reveals itself in the *temporal* succession of world history, while the highest *intelligence* is the spirit's self-knowledge in philosophy.)

War has a parallel on the level of abstract right. Vengeance (*Rache*) is the harmful reaction of a private person against another person who has harmed him. The *Sollen* inherent in abstract right demands the transformation of vengeance into a public impartial institution, i.e., the judge, who stands above the parties. The universal *Sollen* must not be monopolized by either of the particular wills because this would lead to partiality in the application of the principle. Vengeance must therefore be transformed into punishment (*Strafe*).

Harm done by one particular nation to another, however, cannot be punished by a supranational institution because none

exists; the harmed nation must defend itself. If its freedom and well-being demand it, it must fight against infringements and obstacles from other states. If an international court is not only factually absent, but also impossible — as Hegel implies without sufficient argument — an impartial judgment becomes difficult. Did the other nation indeed infringe on the *Sollen* of the abstract right clearly formulated in § 331? Did it show contempt instead of recognition for the other nation's sovereignty? Was the other state the first to show disrespect and to harm "us," or did it have good reasons for thinking that "we" had started the hostilities? and so on.

However, Hegel goes further — indeed he goes much too far, when he writes:

Which injuries, however, [. . .] must be considered to be a determinate breach of treaties or a violation of recognition and honor remains indeterminable in itself (*ein an sich Unbestimmbares*), because a state can put its infinity and honor in each one of its singularities and is the more inclined to this irritability, the more a strong individuality by long inner rest is driven to look for and to create a matter for its activity toward the exterior (§ 334).

Before we can begin to understand and criticize these bold statements, we ought to remind ourselves of the determinations of international law that Hegel has already given. States must recognize one another's freely chosen treaties (or contracts). They ought not attack, harm, or diminish the other nations' unity, independence, freedom, and well-being. These obligations and prohibitions are determinable and determined, albeit in a still abstract mode. Since Hegel's logic does not permit any appeal to exterior factors for the determination of a universal (on the contrary, the universal or abstract concept, and especially the concept of the will, must determine *itself*), it is not clear why, in the case of international right, it would be impossible to determine or particularize the abstract *Sollen* into more concrete rules. Hegel himself does it, for example, in §§ 338 and 339, when he deduces the "determination" (*Bestimmung*) that forbids hostile treatment of ambassadors, families, and private persons, and the killing of prisoners. Nothing therefore hinders a theoretical specification of international rights that ought to be realized, even in war. It is thus false and illogical to declare that concrete, i.e., particular, acts of injustice between nations are "in themselves (*an sich*) indeterminable."

In an attempt to rescue the expression "*an sich* indeterminable," we could try to interpret it as an expression of the difficulty of indicating precisely when observance of treaties and respectful behavior turn into unfriendly or treacherous attitudes. Many subjective factors enter into such evaluations, but this difficulty occurs in many ethical affairs — it is not peculiar to international relations. The absence of a judge whose decision would terminate the debate puts the burden on the states themselves, but it does not make the question more or less *determinable* than it would be in an international court.

Hegel has landed in a contradiction by trying to show the rationality of a real but pseudo-"actual" and, according to his own logic, irrational situation. In other words, he has declared a violent "state of nature" (as he himself calls it in § 333) to be "actual," i.e., *rational*, good, and normative. Even in the most benevolent interpretation of § 334 it seems to follow from his argument that not even political analysts or university professors of non-involved nations can form a correct judgment about the justice or injustice of particular wars. The words *an sich unbestimmbar* (indeterminable in itself, § 334) even declare the whole discussion about just and unjust wars irrelevant and meaningless. While the whole thrust of his *Rechtsphilosophie* lies in the necessity that singular wills with their particular interests must learn to will the universal will as the source and warrant of their freedom, right, honor, and well-being, and to understand that this source and warrant, to be effective, must exist in the form of an objective and institutional organism, Hegel abandons this idea as soon as freedom, right, honor, and well-being become international issues. The greatest philosopher of the nineteenth century has capitulated before the violent atomism of modern nationalism. If Hegel, as a prophet, had called the king to account for supranational perspectives and demands, he could have appealed to his logic; as a thinker, he followed Minerva's owl but ignored the future. He could have preserved both his realism and his logic if he had not been so impatient to declare that the idea of ethics had been actualized in his own time.

Section 334 is an infelicitous mixture of logical argumentation and empirical description. To explain the recurrence of wars — an explanation that verges on an attempt to deduce its necessity — Hegel insists on the multiplicity of relations and conflicts or

injuries that can emerge among states. Although his analysis of civil society was almost completely silent about international relations between private citizens, he mentions them here as possible *casus belli*. He also points to the subjective, arbitrary, and sensitive character of one nation's evaluation of other nations' behavior and to the fact that "forceful individualities" like to fight (§§ 234-235), but he does not emphasize that this form of subjectivity should be overcome by an attempt to make and execute impartial judgments. He seems to suggest that the dictum "*nemo iudex in causa sua*" (nobody is judge in his own case) has an absolute validity and that patriotism is the highest perspective in the dimension of *Sittlichkeit*. We will see that history plays the role of highest judge, but the kind of "right" by which it rules is quite different from the right that is defined in the preceding parts of Hegel's treatment of an honest life.

In § 335, a corollary to § 324, the reasons for making war (which, according to the principle stated in § 331, is only justified as a defensive action) are further developed. Not only can real injury or explicit threats cause wars, but they also create a "greater or lesser probability" and a suspicion that the other nations will damage our interests. Hegel here avoids normative language but says that the state cannot (*kann nicht*) restrict itself to *actual* injuries. In a passage of Griesheim's notes (1824-25), we read:

It is not only the violation of the formal aspect of treaties which makes a war just or unjust [. . .]; Frederick II started wars; one cannot say that treaties were broken and yet these wars were just [. . .]. Actual injury is not needed for war. A wry face, the possibility of injury, [or] the intention of the other can, as an already beginning injury, occasion a war (Ilt. 4, pp. 741-742).

Why exactly Frederick's wars were just is not revealed in this passage, but if the text is reliable, Hegel has here expressed unambiguously that *he* knows how to determine *in concreto* whether certain wars are just or unjust.

Humanity and the Nations (§§ 336-337)

Had Hegel lived in the twelfth or thirteenth century, he might have found a supranational praetor in the universal Church. However, like other German Lutherans, he viewed the Church as a

national institution according to the principle *cujus regio, ejus religio*.¹⁰ The absence of a worldwide judiciary and political authority dissuaded him from appealing to a supranational code of rights in which the universality of free will, the principle of all his thoughts about praxis, would be realized. If the will cannot be actualized in its boundless universality, there is, in the end, no universal (legal, economical, or political) institution of objective spirit. Neither religion nor morality afford any hope in this respect; they are confined to the interiority of the *Gesinnung* and the friendship of private associations with their myths and rituals. Whereas both play an important role within the state, they are useless for the orientation of international politics. These theses are clearly expressed in §§ 336-337.

If the universality of the will, i.e., human freedom as such, cannot give itself *Dasein* in *one free world*, where then must the (logically necessary and factually inevitable) realization of that universality be sought and found? Hegel's answer is threefold: (1) its "ethical" *Dasein* is found in the pseudo-actual and contradictory togetherness of contemporary particularities alongside one another in one worldwide *place* (§§ 330-340), while (2) the world-encompassing realization of the will's universality is found in the quasi-actual *temporal* succession of political constellations in world history (§§ 340-360). The realization of reason's universality in the form of free intelligence, however, is found (3) in *the space and time transcending wisdom* of absolute knowledge (which, though not explained in the *Grundlinien*, crowns the entire development of the *Encyclopedia*). The false or pseudo-actual character of the first kind of realization is revealed in the fact that states, those summits of ethical life, cannot overcome, absolve, or sublimate their own particularity. According to Hegel, a nation is simply incapable of distancing itself from its own particular self-interest; it *cannot* serve or defend or propagate the freedom of other nations or humankind as such. Within a nation, it is not only possible and recommended, but obligatory that persons and institutions be concerned with the free well-being of *all* citizens, at least by limiting their selfish demands when these conflict with the rights of other

¹⁰ See the next chapter.

citizens and the community as a whole. States, however, cannot imitate such behavior because, as sovereign, they are self-contained and thus self-absorbed. The thought that nations or kings should aim at the freedom and rights of other nations or their citizens is dismissed as a pleasant, "universal," "moral," and "philanthropic" but empty and totally impractical opinion (§ 337 & R).

Hegel declares that submitting the states to a supranational duty of philanthropy is a clear sign of superficiality (*Seichtigkeit*). One must, however, always pay close attention when he uses the word *seicht* to disqualify his enemies: it may be invoked to conceal a failure in his argument. The mistake philanthropists make, he says, lies in their comparison of the well-being of a state with the well-being of singular citizens. According to them, states should dedicate themselves to the well-being of all humankind, just as citizens should devote themselves to the state they comprise. Against them, however, we must declare (a) that the state's devotion to the national well-being is justified in a way very different from the devotion of singular persons to their private well-being, and (b) that "the highest law" of a particular state urges each state to actualize its own well-being, without bothering about the universal demands of *all* nations and individuals.¹¹

These declarations are enigmatic, insofar as the "justification" (*Berechtigung*) or "deduction" of right as *Dasein* of the *Sollen* that is included in the spirit's freedom should follow the same logic in all instances of freedom's realization. A true (or rational) concept necessarily actualizes itself — at least in the long run — in an appropriate form of reality. The well-being of singular persons is a right that follows from their singular wills as individualizations of the universal concept of free will; the nation's right to concrete well-being similarly follows from its being a concrete actualization of the universal will on the level of an autonomous community. The state's well-being has a greater urgency than the individual citizen's right — the latter must even be sacrificed to the former, if necessary — but this does not preclude the necessity of trans-

¹¹ Cf. Ilt 3, p. 838: "The external right of state [. . .] always has the principle that it only *ought* (*Sollen*) to have principles [. . .] The well-being of the states as such is here the ultimate goal. The well-being of individuals can be in conflict with universal laws, but there is nothing superior to the well-being of the state. Its well-being is its right."

posing the onto-logical bond between the concept of free will (which is not only national but necessarily *universal*) and its concrete *Dasein* to the level of the international community.

Hegel's positive argument for each state's indifference toward the well-being of other states runs thus: (1) the relation between states is a relation of *particular* wills, while (2) the "content" of a particular will is its well-being. *Therefore* (3) this particular well-being is the highest law (*das höchste Gesetz*) that rules their relations. This argument is then strengthened and confirmed by the observation that *right*, as abstract freedom (§ 333), and well-being, as concrete *Dasein* of that right, are identical in the idea (the concrete, fulfilled, existing concept) of the state (§ 336).

What Hegel sees here as a confirmation is in fact another formulation of the thesis that a particular will wills (as its "content") the well-being of the willing subject. This relation between the form of the particular will and its content, or between abstract right and well-being, is thematized in the chapter on morality (§§ 105-141). Individual subjects will their particular happiness and well-being, but since they are only the singularization of the universal will (or "accidents" of the ethical substance), there is a tension between their particular wills, which are directed toward their particular well-being, and the universal will, i.e., the core of their own conceptual structure, which directs them toward the universal right and well-being of *all* individuals. They are thus *obliged* to subordinate their particular wills to the demands of the universal right; and because Reason demands that this obligation (this *Sollen*) be actualized, a higher dimension, that of the political community, is necessary and ultimately realized. Within this community, the abstract right of all individual members is then concretized in one common well-being.

Hegel has shown what the agreement between particularity and universality means within the horizon of the national community, but it also has become clear that the universality of the state is a particularity if compared to the whole of humankind. The demands of the universal will are not and cannot be fulfilled in one nation-state. The orthodox Hegelian way to extend the argumentation of Hegel's chapter on *Sittlichkeit* would be to repeat on a higher, *truly* universal level the logical sequences that governed sections 1-329. Since states are particular instantiations of the

universal will, their particular right, which is concretized in their national well-being, must be pursued *in subordination* to the still abstract right of the universal will, i.e., its demand for realization of concrete freedom and well-being for its fully universal existence: humankind as such. Hegel's rejection of this application of his own logic must be motivated by reasons other than a mere reluctance to talk about the future or the nationalism he shares with many of his contemporaries. However, the reason given in § 336 is a poor one. Why should the tension between the *Sollen* of (universal, abstract) freedom (§§ 330-331) and (particular, concrete) well-being (§ 336) be sublated in the (particular!) *state*? The distinctions that are relevant in this context are (1) the particular "universality" of the state's freedom or right, (2) the concretization of this right in the (particularly universal) well-being of the state, (3) the universally universal right or freedom of humankind, and (4) the universally universal well-being of humankind. (3) and (4) are required by the abstract *Sollen* formulated in § 330, while it follows from the essence of (1) and (2) that they must be subordinated to that universal law. These logical consequences are, however, obscured and distorted from the outset. In §§ 330-331, Hegel already restricts the meaning of the universal *Sollen* to relations between *states*, thus ignoring the fact that humankind is also (1) a multitude of individuals whose existence is not exhausted by its political aspects and (2) a community of shared historical destinies. Anticipating the inevitable conclusions of Hegel's philosophy of history (§§ 340-360), we can state that neither humankind as universal fraternity nor "all human beings" captures Hegel's attention. He simply stops at the pseudo-universality of nation-states that treat all worldwide ideals as "philanthropic" and utopian, unreal and moralizing. He does not even call such ideals "moral," but rather "deemed moral" or "falsely called moral" (*für moralische Gebote gehaltene allgemeine Gedanken*," § 337R).

According to Hegel, such "universal thoughts" are too abstract, because the *only* aim of a state is its *own* freedom in the form of its own well-being (§ 336). This is strange, however, for well-being (*Wohl*, a Kantian category taken over by Hegel) is related to needs, while honor or heroic freedom are independent of needs and satisfaction, which belong to the natural aspect of the spirit's earthly life. In certain circumstances, individuals must preserve

their honor by sacrificing the satisfaction of their particular needs to more worthy causes, especially in the service of the national community. However, a state cannot and should not do what honorable individuals do; it cannot and ought not sacrifice any part of its wealth for the sake of other peoples; it must be indifferent, not compassionate, charitable, or — I would say — Christian. The nation's right is exhausted in its excessive greed unhindered by any concern for the rights of other nations. As long as our nation takes care of its own happiness without positively attacking other non-offensive nations, it is acting appropriately. Our freedom is justified, even if the citizens of other nations are enslaved or miserable. Hegel was far from being a prophet who challenged kings; he also believed that politics and worldwide charity were irreconcilable.¹² If his intent was merely to *describe* the "ethical" situation of the world, he had a point; but why did he not show that the international situation of his nationalistic century was condemned by his own principles? Why did he betray his own principle according to which the will, as the universal demand of the unlimited spirit, wills its actualization as *universally universal* human actuality? The unjustified interpolation of "the people" into the definition of *Sittlichkeit* (in § 156) has left Hegel's *Rechtsphilosophie* bereft of its worldwide relevance and made it into a monument of nationalistic ideology.

Is this conclusion too harsh? Is there not a certain wisdom in the modesty (?) of restricting the dimension of *Sittlichkeit* to limited spheres of freedom and well-being, without interfering in other nations' self-interests? Do not the worldwide claims of cosmopolitan moralists and philanthropists unduly identify politics with a politicized or even totalitarian religion? Hegel insists on the "particular," restricted character of the "wisdom" that is needed for national and international politics: a nation's government is not called to be "the general providence" of the entire world but only "a particular wisdom" (§ 337). This might be true, especially because of the limited perspective due to the natural and cultural conditions of the various nations. However, it precludes neither

¹² Cf. Wa 256: "World history is this divine tragedy in which the spirit lifts itself up above compassion, *Sittlichkeit*, and all that otherwise everywhere is sacred [...] The world spirit has no indulgence, no pity."

our awareness of such limitations nor the insight that participation in a “concert” of nations is a condition for the actual freedom of a human *world*. Of course, Hegel has not forgotten that the freedom of an individual cannot be actual if it is separated from the free community to which the individual belongs; but, as we will see, he does not see imperialism as an obstacle to the ruling nation’s freedom.

Wartime Law (§§ 338-339)

Hegel’s capitulation before the dire situation of a divided world is expressed in the ambiguity of his half-descriptive, half-normative language. By clearly deducing normative rules from the general *Sollen* formulated in §§ 330-331, he would subject himself to the verdict of § 337R in which he rejects moralizing demands; however, he recognizes that there are ethical differences between savage and civilized forms of international behavior. In Europe at least, traditional rules for maintaining some level of decency during wars have become part of the nations’ effective ethos (§ 339). In §§ 338-339, Hegel shows that some rules of natural law that govern war are rationally justified and can be understood as following from the considerations given in §§ 330-337.

The international “state of nature” (§ 333) is a situation of violence, contingency, and “lawlessness” (*Rechtlosigkeit*, § 338). This does not mean that all *Sollen* has disappeared, for the basic right in this situation is precisely the demand for mutual recognition among all sovereign states. Whether this recognition is indeed realized, is contingent, however. *If* states do recognize one another’s sovereignty, a bond is created, which again implies a normative element. As a realization (*Dasein*) of the basic *Sollen*, the bond between nations (which depends on their contingent choice) demands that no action be taken — not even in war — that will destroy that bond and the mutual respect of which it is a development. The stipulations for the traditional law of war follow from the principle stated in §§ 330-331. If war is inevitable, it should be waged in such a way that peace does not become impossible. This implies that ambassadors should be treated with respect, that the very existence of the other state, its institutions and private sector, should not be destroyed, etc.

In the last section on war (§ 339), Hegel refers to a non-institutionalized but historically maintained and somewhat powerful form of *Sittlichkeit*: "the mores (*Sitten*) of the nations." This is the existing "universality of behavior" in which the universality of the *Sollen* is realized. Fortunately, civilized nations of the modern world make a distinction between private lives and military functions; they no longer kill prisoners or destroy hospitals, churches, and so forth. That Hegel does not indulge in illusions, however, might be concluded from a remark made in 1823: "Admittedly, in a situation of war and combat all this [i.e., the totality of these injunctions and prohibitions] is at the mercy of arbitrariness, for in such a situation the passions are released" (Ilt 3, 838).

Since there are no objective institutions that can civilize war and prevent or abolish unjust wars, Hegel looks for a surrogate. It might be found, he thinks, in the historically grown ethos. In the course of 1824-25, he even points to a kind of supranational, though not yet universal, community with its own mores when he states:

The European nations form a family on the basis of the general principle of their laws, their mores, [and] their culture. Thus their international behavior is different [from an entirely uncivilized state of nature] in a situation otherwise dominated by violent damage (Ilt 4, 743-744).

With regard to the combination of respect and warfare, another parallel with the chapter on abstract right and, more precisely, its last part on crime and punishment, must be signaled. Punishment of a criminal should never abolish respect for his personality, even in the case of a murderer who deserves to be killed. Between states, respect for the sovereignty of their individual independence is demanded, but what about a "murderous" state? Do other states have the right to punish it by destroying its independent existence? We have already learned that no authentic punishment is possible among states because there can be no supranational praetor. Action against "criminal" states is always a kind of vengeance (*Rache*). But just as an impartial judge is needed who can resolve a legal dispute between private persons, the international state of nature requires a judge who is not himself a state. Since Hegel denies the possibility of an international tribunal, he must look elsewhere for a final judgment if he does not want to finish his

book on a tragic note. In some sense he does deduce a supra-national judge — not, however, in the form of a legal or political institution that represents the whole of humankind, but rather in the form of a spiritual providence that rules the national adventures of which the history of the world is composed.

Transition to World History (§ 340)

Having analyzed the international situation, Hegel asks how reason *appears* in it. From the (rather superficial) perspective that has been developed, the world is an arbitrary play of competing states, whose decisions are influenced by all sorts of subjective and collective, as well as individual, “passions, interests, goals, talents, virtues, violence, injustice, and crimes” (§ 340). The nations, even if they are monuments of internal organizations, seem to be toys of arbitrary chance and destiny. Humankind is ruled by arbitrariness and contingency.

Hegel could have reinforced his picture if he had not neglected the international relations between private persons that are involved in the world economy. Could he have foreseen that civil society would inevitably take on worldwide proportions and that the financial power of some private companies would far outstrip many national economies? Could he have predicted that our international (dis)order would be dominated not only by dealings between states, but just as much by private interests?

A reader who stops at the description given in §§ 330-339 accepts a superficial interpretation of the world. As the objective concretization of spirit, the world is more than a diversity of particular, and thus finite, organizations of freedom in competition, cooperation, or struggle with one another. In the contradictory actions and adventures of finite nations something infinite appears: the spirit itself. Do not think here of an otherworldly power who directs the earthly games from afar. The providence revealed in the play of politics is the “spirit of the world,” the *objective* spirit, or the spirit as “second,” ethicalized nature (§§ 324R, 337, and 343).

The world spirit transcends all particularities, including national ones — not, however, in the form of a higher community or empire, but through *time*. The spirit of the world is the spirit of

the (ethical) world's *history*, and in this incarnation, it is the judge whom Hegel could not find in the *space* of the interstate scene. Because the spirit is the source of all rationality — the spirit *is* reason — this supreme judge is the one who, in the end, bestows justice. World history (*Weltgeschichte*) is the world court (*Weltgericht*).

The tribunal of the world spirit, as revealed in history, is Reason's actualization of the final, deepest, and most encompassing meaning of "right" (§ 340). To see this, one must be able to correctly interpret the appearances, which otherwise seem to suggest the ultimate victory of injustice, cruelty, madness, and monstrosity. Philosophy reveals that the world's history, notwithstanding its disasters, is the persistent unfolding of a rationally created world, whose full perfection is found in the self-knowledge through which the spirit comprehends its own infinity (§ 343R).

Section 340 is extremely important. Here Hegel makes the transition from the finite actualization of the spirit (i.e., from the universe seen as the synthesis of nature and the practical or "ethical" dimensions of culture) to its infinity. This infinity is not a property of history as such, because history, as temporal and successive, is, together with spatiality, the most exterior, primitive, natural, and finite aspect of the universe. Space and time are the first, basic (but least rational and actual) moments of existence.¹³ Similarly, the human space and time of objective spirit are close to nature, dispersed, exterior, and finite, yet they provide the spirit with the possibility of transforming free individuals and peoples into civilized realities. Moreover, history is not merely time, it is also the ongoing progress of civilization. Reason needs natural time to develop its potentialities in two directions: (1) it gradually actualizes more perfect organizations of *Sittlichkeit* and (2) it transcends even the ethical organizations by generating within them more exquisite forms of contemplation (§ 393R). The second direction leads to the ultimate dimension of spirituality: the "absolute" spirituality of art, religion, and knowledge. The first still belongs to "right" in its broadest sense. "World history" (§§ 340-360) is the realm that distinguishes *and* unites the spirit's self-

¹³ They are the most elementary categories of Hegel's philosophy of nature: Enc A 197- 203; BC 254-261.

knowledge and its ethical existence; it is the transition between the fully developed will and the infinite perfection of intelligence in the form of successful insight. "Know thyself!" the command that rules the entire philosophy of spirit,¹⁴ contains the true meaning of human existence. Obedience to that command is fully rewarded in philosophy, but participation in the *aporiae* of *Sittlichkeit* is necessary to reach the theoretical truth of the spirit's ultimate revelation.

¹⁴ Enc BC 381. Cf. Chapter Two, pp. 133ff. and 149-150.

CHAPTER TWELVE

WORLD HISTORY

According to §§ 341 and 352, world history is the movement of the spirit through which it liberates its self-consciousness from "the form of natural immediacy" in order to reach its perfection in the absolute, exhaustively mediated, knowledge of itself. By objectifying itself as "right," the spirit transforms nature into a "second nature" or "world" (§ 4). Many of its properties are thus natural, as has been shown in the analyses of property (in abstract right), needs (in civil society), procreation (in the family), the land of the *Junker*, and the hereditary character of the king (in the state). The entire realm of objective freedom can be characterized as the natural or immediate aspect of the spirit's self-realization. In his philosophy of history, Hegel explains the relation between (the first) nature and the history of the objective spirit as the unfolding of the two parameters of nature:

World history [. . .] is the unfolding of the spirit in *time*, while the idea as nature unfolds itself in space (Su 12, pp. 96-97).

The natural aspect of this spirit is sublated when it is transformed into an element of the fully actualized spirit; it then belongs as a subordinate element to the spirit's perfectly developed self-consciousness in art, religion, and philosophy. The spirituality of his highest actuality does not abolish matter, nature, corporeality, world, or history, but rather possesses them as its own embodiment. The history of the "world," or the ethical world as a spatial and temporal process, is the empirical aspect of the growing self-knowledge in which the absolute spirit realizes its dynamic "actuality." The spirit encompasses its internal (abstractly spiritual) and external (objective and natural) components, but its appearance in the form of a worldly history does not yet reveal this all-encompassing truth. The full truth can only be discovered from the perspective of the absolute spirit.¹

¹ The secondary literature on Hegel's philosophy of world history, as defined

in the *Grundlinien* and the *Encyclopedia*, is enormous. For a complete insight into Hegel's conception of history, it should be supplemented with the study of his courses on the history of art, religion, and philosophy. The main sources for Hegel's philosophy of world history, besides the *Grundlinien* and the *Encyclopedia*, are *Philosophie der Weltgeschichte* (Lasson, ed., Leipzig: Meiner, 1923), in four volumes, and *Philosophie der Geschichte* (Su 12). From the secondary literature, the following studies can be recommended: George Dennis O'Brien, *Hegel on Reason and History: A Contemporary Interpretation* (Chicago: University of Chicago Press, 1975); Leo Lugarini, "Tempo e concetto nella comprensione hegeliana della storia," in: *Il Pensiero* 22 (1981): 7-38; Emil Angehrn's "Vernunft in der Geschichte? Zum Problem der Hegelschen Geschichtsphilosophie," in *Zeitschrift für philosophische Forschung* 35 (1981): 341-364 (with helpful information and excellent analysis; see especially pp. 344-349); Oscar Daniel Brauer, *Dialektik der Zeit: Untersuchungen zu Hegels Metaphysik der Weltgeschichte* (Stuttgart: Frommann-Holzboog, 1982); Kurt Rainer Meist, "Zur Rolle der Geschichte in Hegels System der Philosophie," in Otto Pöggeler and Annemarie Gethmann-Siebert (eds.), *Kunsterfahrung und Kulturpolitik im Berlin Hegels (Hegel-Studien, Beiheft 22; Bonn: Bouvier, 1983)*, pp. 49-81; Hans Friedrich Fulda, "Geschichte, Weltgeist und Weltgeschichte bei Hegel," in *Annalen der internationalen Gesellschaft für dialektische Philosophie* (Societas Hegeliana) 2 (1986): 58-105; Timo Bautz, *Hegels Lehre von der Weltgeschichte: Zur logischen und systematischen Grundlegung von Hegels Geschichtsphilosophie* (München: Fink, 1988); Hans-Christian Lucas and Guy Planty-Bonjour (eds.), *Logik und Geschichte in Hegels System* (Spekulation und Erfahrung II, 10; Stuttgart: Frommann-Holzboog, 1989), which contains an extensive bibliography, on pp. 329-378; Giovanni Bonacina, *Storia universale e filosofia del diritto* (Milano: Guerini, 1989), which provides a thorough interpretation of Grl 341-360 and parallel texts in other works of Hegel; Claudio Cesa, "La storia nella prima *Encyclopedia* di Hegel," in Giuseppe Cacciatore, et al (eds.), *Filosofia e storia della cultura: Studi in onore di Fulvio Tessoro*, volume 2 (1992), pp. 55-66; Valerio Verra, "Storia e seconda natura in Hegel," in his *Lecture Hegeliane: Idea, Natura, Storia* (Bologna: Il Mulino, 1992), pp. 81-99. Regarding Hegel's conception of the relations between world history and history in a broader sense, see Valerio Verra, "Storia e memoria in Hegel," in, *Incidenza*, pp. 341-365; Remo Bodei, *Sistema ed epoca in Hegel* (Bologna: Il Mulino, 1975); Jean-Louis Vieillard-Baron, "Temps et histoire chez Platon, Hegel et Heidegger," in his *Le temps: Platon-Hegel-Heidegger* (Paris: Aubier, 1978) pp. 5-23; Robert L. Perkins (ed.), *History and System: Hegel's Philosophy of History* (Albany: State University of New York Press, 1984), especially Walter Jaeschke's article, "World History and the History of Absolute Spirit," on pp. 101-116; Roberto Racinaro and Vincenzo Vitiello (eds.), *Logica e storia in Hegel* (Napoli: Edizioni Scientifiche Italiane, 1985), especially the articles by Leo Lugarini, Valerio Verra, and Claudio Cesa; Bernard Bourgeois, *Eternité et historicité de l'esprit selon Hegel* (Paris: Vrin, 1991); Pietro Rossi, "La storia universale e il suo quadro geografico," in P. Rossi (ed.), *Hegel: Guida storica e critica* (Bari: Laterza, 1992), pp. 160-206; Franco Chiereghin, "Tempo e storia in Hegel," in *Verifiche* 23 (1994): 17-56; Adriaan T. Peperzak, "Logic and History in Hegel's *Philosophy of Spirit*," in Hans Friedrich Fulda and Rolf-Peter Horstmann (eds.), *Vernunftbegriffe in der Moderne* (Stuttgart: Klett-Cotta, 1994), pp. 607-622; Walter Jaeschke, "Die Geschichtlichkeit der Geschichte," in *Hegel-Jahrbuch* 1995: 363-384; Peter Bemelmans, "Zeitvergessenheit im objektiven Geist," *ibid.*, pp. 324-325; and Valerio Verra, "La storia," in Claudio Cesa (ed.), *Guida a Hegel* (Bari: Laterza, 1997), pp. 280-313.

Weltgeschichte (§§ 341-342)

Hegel begins his treatise on world history (§§ 341-360) with an anticipation. Introducing what he calls in the *Encyclopedia* the "absolute spirit," he points out that the full development of the spirit's external and internal potentialities is found in the revelation of its universality in art, religion, and philosophy. It is the all-encompassing absolute spirit that brings itself to perfection in world history. The word *Welt* in *Weltgeschichte* is used in § 341 for the entire universe of the subjective, objective, and absolute spirit,² while the preceding section (§ 340) seems to understand "world history" as history of the world of "right" (or objective spirit) only. Whatever the significance of this ambiguity, it is clear that a book on "right" cannot contain a full treatise on the spirit's aesthetic, religious, and philosophical self-knowledge. Hegel certainly uses elements of such a treatise in the last twenty sections of the *Grundlinien*, but he focuses on the objective aspects of the transition from the spirit's ethical life to the ultimate dimension of spirit, which is the summit and totality of all dimensions. Only absolute spirit fulfills the task that is indicated at the beginning of Hegel's philosophy of spirit, where he quotes the Apollinian and Socratic command "Know yourself!"³ Here, the transition from "right" to absolute spirit is revealed as the truth of the final judgment (*das Weltgericht*), which could not be found on the level of international relations. It is typical for the world of "right" that particularity rules in all of its stages. All configurations of *Sittlichkeit*, i.e., family, civil society, and the state testify to the impossibility of realizing the spirit's universality in fully appropriate ways. The reason is that they are still too much determined by natural factors. Though the spirit embodies itself in the first and second nature, all of its objective articulations are only "ideal" moments of its ultimate self-identity, which occurs in the form of self-knowledge.

² I here borrow the expression "absolute spirit" from Hegel's *Encyclopedia*. In the *Grundlinien*, Hegel uses other expressions, such as "der allgemeine Geist" or "die geistige Wirklichkeit in ihrem ganzen Umfange von Innerlichkeit und Äußerlichkeit" (§ 341), or "the world spirit [. . .], insofar as it [. . .] is the movement of its activity to know itself absolutely [. . .]" (§ 352).

³ Grl 343R; Enc BC 377. Cf. Ilt 4, p. 745; and Chapter One, note 73, and Chapter Two, note 12.

The relation between the absolute spirit and the objective world of right is the relation between the universal moment of the actualized idea and its dispersion in particular individuals, families, corporations, estates, and nations. In his course of 1824-25, Hegel formulates this logical structure in theological language as the relation between God the Father and the Son:

The spirit is completely universal. It is the world spirit which accomplishes himself in world history; he brings himself therein into appearance; he shows himself as his Son [in] that his entire essence is displayed in his objectivity. This son loves him, because he is at home in him. He accomplishes himself in the history of the world [as] in the actuality [and] knows himself. This form [of existence of the spirit] is the business (*Geschäft*) of philosophy (Ilt 4, p. 746).

The world (in the restricted sense of objective freedom, "right," and *Sittlichkeit*) is God's (or the absolute spirit's) own external existence, and the history of this world is the ongoing revelation of his interiority.⁴ As all-encompassing, the spirit knows itself by knowing world history as a moment of its self-explanatory actualization. History is the movement through particular moments and stages required by the spirit for its perfection and full transparency.

The history of the world has, in general, the meaning that the right of the absolute spirit conquers *Dasein*. In the preceding stages only particular rights acquire *Dasein*. The universal, absolute spirit has the greatest right [. . .] It is only in world history that spirit gets rid of its particularities and rises up to its highest *Dasein* (Ilt. 3, 839).

If the history of a people must be understood as a judgment realized by the spirit itself, it is not merely a history of power and violence ruled by blind chance or fate, but rather a sequence of periods and events ruled by the supreme form of reason. Hegel's

⁴ Cf. *Vernunft/Geschichte*, pp. 32-33 ("The spiritual principle of the philosophical world history is the totality of all perspectives. It considers the concrete, spiritual principle of the nations and its history [. . .], a universal thought that permeates the whole [. . .], the most concrete object, which gathers all the different sides of existence in itself. Its individual (*Individuum*) is the spirit of the world [. . .], the Mercury, the guide of all peoples [. . .], the infinitely concrete [. . .] that is present everywhere, because the spirit is eternally at home with itself, without past, always the same, remaining in its force and power.

philosophy of history is a translation into philosophy of the religious trust in world transcending Providence (§ 343 R, cf. § 337).

History and Wisdom (§ 343)

In Chapter Three we saw that the spirit is defined as the rational unity of intelligence and will. At the end of the spirit's complete unfolding, this unity must be actualized completely and perfectly. All of the theoretical and practical moments through which the spirit has moved must be gathered in the highest and deepest, widest and longest, yet most concentrated and simple union of the perfectly free and intelligent actuality of the spirit. Within the framework of his book on *Rechtsphilosophie*, we could expect that Hegel would emphasize the perfect, no longer particularized but actually universal, freedom achieved by the spirit in its ultimate completion. While he does point to it (e.g., in § 342), he emphasizes instead knowledge and self-knowledge as characteristic of the spirit's absoluteness. Here we see again how Hegel wavers between a conception of will and intelligence as equally spiritual, absolute, and infinite, and a conception that subordinates the will, as limited, particular, and finite, to the intelligence, whose development into the *theoria* of successful self-knowledge is then seen as *the* final aim of the universe and the true definition of God.⁵

It is necessary to bear this in mind when reading Hegel's philosophical resumé of world history in §§ 341-360. The actuality of right in every form, including the international relations between competing states, is here reinterpreted from the perspective of the free *self-knowledge* reached by the spirit throughout its historical transformations. The history of ethical configurations and transfigurations is the display (*Auslegung*) and external actualization (*Verwirklichung*) of the spirit's essence in the appearance of successive (and, thus, particular and finite) adventures. Its wisdom, which is required for a non-violent and fair judgment, is hidden in the seemingly arbitrary, horrible, tragic history of a conquering and defeating, murderous and unjustly victimized world.

⁵ See *Selbsterkenntnis*, pp. 38-57; and *Hegels prakt. Phil.*, pp. 90-96.

World history is this divine tragedy in which the spirit rises above pity, *Sittlichkeit*, and whatever else is sacred for it, and where the spirit brings itself forth. Sadness may fill those who observe the downfall of great peoples, the ruins of Palmyra and Persepolis, [and] how, in Egypt, everything has been destroyed. But what went down, is down and had to go down. The world spirit does not spare or pity. Even the most glorious, highest principle of a people is, as principle of a particular people, a limited principle, overridden by the spirit of the time. Schiller's words [to the effect that] world history is a world tribunal, are the deepest one can say. No people ever suffered injustice; what it suffered it has deserved (Wa 256-257).⁶

It is obvious that the criterion of justice and injustice at this level must be different from the criteria of petty moralists or of a nation's internal institutions. On the highest level of spirit a new idea of "right," "freedom," "reason," and "justice" comes to the fore.⁷ But how does Hegel prove the hidden rationality and wisdom of history?

The core of his answer is given in § 343, written entirely from the perspective of the absolute spirit. The spirit's ultimate aim is the comprehension or "grasping" (*Erfassen*) of its own truth (the word *Erfassen* is repeated six times in the three sentences that comprise this section). In this light, the results of the preceding

⁶ Cf. *Vernunft/Geschichte*, pp. 34-36 with respect to the sadness caused by this history and the ruin it leaves behind. See the commentary by Jacques D'Hondt, in his *Hegel Secret* (Paris: Presses Universitaires de France, 1986), pp. 83-113, and also Claudio Cesa, *Hegel Filosofo Politico* (Napoli: Guida, 1976), pp. 97-98.

⁷ The right of morality is even more relativized on the supranational level; it seems even to become (almost?) irrelevant. Cf. Wa 249: "Wars can be rejected in the name of morality, but [. . .] wars must be considered necessary." A similar conflict arises between right and morality, on the one hand, and the great nations (or the great heroes of history, see below) on the other: "Against such a people, in which the world spirit reveals itself, the rights of other peoples are nothing [. . .] In the people of Rome this *Unrecht* was right in the end (*behielt recht*) because it was the right of the world spirit. Cf. *Vernunft/Geschichte*, pp. 10 (to view the issue correctly and in context, "one must stand above it; that is not possible if one looks at it from below through the hole of a moral bottle or some other wisdom"), 17-18 ("the moral reflections of the historians are useless"), 105, 171 ("world history occurs on a higher level than the level on which morality has its own place. The latter concerns the private dispositions of individuals, their characteristic will and behavior; these have their own value, imputation, reward or punishment. What the ultimate goal of the spirit in and for itself demands and accomplishes [i.e.,] what Providence achieves, transcends the obligations and the responsibility and demands that regard the *Sittlichkeit* of individuals," etc.), 172, and Su 12, 33-36.

chapter must be understood as a means to that aim: the multiplicity of existing states are called to existence as "objects of the spirit's consciousness" on its way to self-knowledge. Consciousness develops into self-consciousness, and this yields perfect self-knowledge. The spirit creates the nations as particular instantiations of the specific principles that are displayed in their constitutions and historical actions. Each national history displays a specific experiment with freedom and thus permits an interpretation (*Auslegung*) of its principle and of the way in which that principle is differentiated and actualized. By reflecting on a particular national history, the spirit is able to "grasp" a particular aspect of itself. This limited self-comprehension takes place in the artistic, religious, and philosophical creations in which a nation represents, celebrates, and understands its own character and history. When a national culture has fully succeeded in this self-discovery and self-interpretation, it has reached its summit, but such is the beginning of its decay and, thus, the beginning of its replacement by other nations with their own culture and self-comprehension. For the universal spirit, each particular history brings a new possibility of spiritual life to existence, enriching its self-consciousness by a more complete self-interpretation. The succession of nations and cultures is a progress in wisdom, insofar as the universal spirit uses them as rungs on the ladder of its own ascent to self-knowledge. Every time a nation achieves its self-organization in freedom and knowledge, the spirit harvests the piece of wisdom yielded by that national history. Having integrated it into its own growing wisdom, it can then turn to the next people for further discoveries. This process presupposes that the universal spirit reinterprets the nation's self-interpretations from its own, absolutely universal, standpoint. Its comprehension (*der* [. . .] *dies Erfassen erfassende* [. . .] *Geist*) takes the limited national comprehensions together as components of the full truth about the world, which coincides with the full truth of the universal spirit itself (§ 343). Thus, the "judgment" (*Gericht*) about each nation executed by the universal spirit is not a mere condemnation or punishment, but rather the truth about the particular, and therefore restricted, character of all nations as such. All of them must be left behind, but each must be thanked for its contribution to the growing knowledge of the entire truth. World history, as the history of institutional freedom,

is a necessary but insufficient condition of philosophy. The states are at the service of the world spirit's absolute (self-)knowledge. "They stand around its throne as accomplishing (*Vollbringer*) its actualization, as witnesses and ornaments (*Zierate*) of its glory" (§ 352).

As the expression "comprehending this comprehension" (*dies Erfassen erfassende*) in § 343 suggests, Hegel here retrieves Aristotle's characteristic of the highest actuality (*energeia*) as *noēsis noēseōs* in *Metaphysics*, Lambda 7. His version differs from the Aristotelian one, however, insofar as Hegel's highest actuality concretizes itself in and through the nations' history in order to gather its wisdom from their discoveries.⁸

The Nations (§§ 344-351)

From § 344 to § 351 Hegel concentrates on the "states (§ 349), peoples (§§ 345-347) and [ethically important] individuals" (§ 348) involved in world history. All of them display, actualize, and interpret a particular principle in some determinate form. States, for example, do this in their constitution and politics. The historical unfolding of their principle is expressed in their legislation, the style of their government, and their culture; however, fascination with their own particular destiny may hide from them the truth that they are, at the same time, "tools and organs" in an all-

⁸ See Chapter Two, p. 135 and note 22. Cf. *Vernunft/Geschichte*, pp. 61-62 ("world history [. . .] is the presentation [*Darstellung*] of the spirit as acquiring the knowledge of what it is in itself), 63 ("the final goal of the world is the spirit's consciousness of its freedom and only therewith the actuality of its freedom as such"), 73, 74 ("world history is the presentation of the divine process, the sequence of stages, in which the spirit knows and actualizes itself, its truth") 167, 169, and 181 ("From the religious perspective, the end of all natural and spiritual existence and activity is the glorification of God [*Verherrlichung Gottes*]. Indeed, this is the worthiest end of the spirit and history. The spirit is self-objectification and self-comprehension. Only thus is it actually present as self-produced. To comprehend itself means to comprehend itself in thought. This means [. . .] to comprehend the absolute itself. Consequently, the end of the spirit is to give to itself the consciousness of the absolute, and thus [to effectuate] that this, its own, consciousness be given as the unique and only truth so that all things ought to be arranged and actually are arranged accordingly. To actually know this means to honor God or to glorify the truth. This is the absolute final end, and the truth is the power that itself produces the glorification of the truth").

encompassing process: the process of the universal spirit in search of absolute knowledge, as described in § 343. While the states succeed one another, the spirit, enriched by their partial wisdom, proceeds to higher levels of self-consciousness (§ 344). Only a philosopher who has already reached the ultimate level can fully understand this process; only from a perspective beyond history, "*sub specie aeternitatis*," as Spinoza would say, can the meaning of national and international adventures be revealed.⁹

Important consequences follow from the distinction between the national and the universal levels of self-consciousness for the interpretation of world history. From the perspective of the state, i.e., according to the national self-interpretation, the legal, moral, and political meaning of all that has occurred in history is judged in light of a *particular* conception of justice and injustice. What we should praise or condemn as just or unjust actions, violence or virtue, innocence or guilt, glorious or shameful adventures, happiness or misery, depends on the principle embodied in our nation; however, since both the principle and the nation are particular, this judgment must subordinate itself to the judgment that is pronounced by reason itself, as concretized in the universal history of humankind. Over and above all national or individual self-awareness, world history shows what, ultimately or absolutely, is right. The actual situation of the world is the stage that the spirit has reached on the way toward its full glory. Each stage is identified by Hegel with the most successful nation of a certain epoch, which reveals what the spirit at this moment wills.

The word "right" has, in the meantime, received another meaning, although it still must be understood as *Dasein* of the [universal] will's free self-determination. The difference between it and former stages of the will's actualization lies in the fact that the *Sollen*, which is still basic as the abstract law within the *space* of contemporary nations beside and over against one another, has now finally been sublated in the *temporal* succession of states that *will* lead to a perfect triumph of spirit in the form of true philosophy. In §§ 330-340, Hegel has tried to show that legal, moral,

⁹ The "immanent task" that each nation must accomplish (§ 344) refers to the *Tat* (doing, activity) through which the spirit historicizes itself (§ 343). Perhaps Hegel alludes here not only to Aristotle's "pure energeia," but also to Goethe's "Im Anfang war die Tat."

and political judgments cannot transcend the borders of a national perspective; a supranational perspective can only be realized in a realm other than the ethical one: the realm of world religions and philosophy. What seems to be irrational, violent, and unjust from the standpoint of *Sittlichkeit*, must be accepted as the expression of the universal will itself. This highest right might seem unacceptable to moralistic minds, but philosophy can explain why it is, on the contrary, completely rational. Philosophy of history shows how Reason uses a violent history to actualize the supra-historical wisdom of its providence (§ 345).

Hegel could have used the argument of § 345 to defend the idea that the international order, analyzed in §§ 330-340, presents us with a spatially coexisting plurality of several principles whose developments in various nations would express the universal will as presently differentiated in many nations. He could then still have argued that this plurality of restricted rights and wisdom in a *certain* epoch, e.g., the present one, does not quite express the universal wisdom and absolute right of the world spirit in its perfection. However, Hegel presupposes that each epoch is dominated by only *one* nation, and consequently by *one* principle and self-consciousness. This enables him to interpret the history of the world as a succession of epochs in each of which only one nation fully realizes the spirit of the epoch, while the others lose their glory or may become the rulers of another epoch. The presupposition is, of course, hazardous (at least for the past) and is in any case completely unproven. It is probably the product of the Eurocentric and unilinear view of history found in the textbooks Hegel used, rather than the fruit of the "highest perspective" he wanted to adopt.

Although "the people" is a fundamental concept of Hegel's *Rechtsphilosophie* — as we saw when it emerged out of nothing after *Sittlichkeit* was defined (§ 156) and in the chapter on the state — it is only toward the end of his book (§ 346), and then only briefly, that Hegel indicates some features of concrete peoples. From the perspective of world history, defined as the concrete configuration (*Gestaltung*) of the spirit in a succession of epochs, nations develop the various immediate or natural principles needed by the spirit for its realization of a "second nature" or *world*. Each people is first of all a group of human beings that is characterized by its

geographical situation, a particular climate, specific corporeal features, moods, patterns of action, language, and so on. As concretely unfolding its proper principle, a people spiritualizes its natural aspects, but neither it nor the world spirit particularized in it can lack or ignore this embodiment. A people is, thus, the particular body of the spirit's absolute (self-)knowledge. National cultures translate the idea of the universal spirit into spatio-temporal ways of life and thought (§ 346).

Peoples "lay out," display, and ex-plain (*Auslegen*, §§ 342, 343, and 344) what the spirit is searching for in itself. As we already saw, this display does not form a spatial pattern of nations beside, with, and against one another, but rather a temporal series of one nation *after* the other. The inner truth of world history is thus a progressive succession of principles enriching the spirit's growth. Not all peoples are historically relevant. Only a people that introduces a new, as yet unknown, principle among the nations marks an epoch. The source of such a principle is its natural, "anthropological" existence (§ 347), but since this does not change much over time, Hegel apparently presupposes that something else, perhaps some specific passion or imagination, must convert that natural characteristic into a historical one. In any case, he sees the history of a relevant people as a kind of maturation: first it is immature, like a child without pronounced characteristics; next it brings a special principle to the world historical scene; finally, it flourishes when, through its constitution and actions, it has reached "a free, ethical self-consciousness" of its own principle and history. In the latter glory of its history it rules the world, but when a new, higher principle is introduced by another people, the world spirit loses interest in it; it becomes marginal (§ 347 & R). Its decline does not necessarily mean that it disappears; it might be conquered, become part of a consortium, or continue in its old ways; it might even assimilate the new principle, but it has lost the initiative together with its "immanent vitality and freshness" (§ 347 R).

In a parenthetical clause, Hegel emphasizes that an epoch-making people "*can make an epoch only once*" (§ 347), but he does not offer an argument for his opinion, though his reference to the preceding section (§ 346) suggests this.¹⁰ In § 346, he argues that

¹⁰ Cf. *Vernunft/Geschichte*, p. 180: "A people cannot [. . .] be epoch-making

the immediate and natural character of each principle ties it to only one people. This would be true if the "principle" of, for example, "the Greeks" could not have unfolded in any other geographical and racial environment than in Greece. But even if this were granted, it is not clear why, in a later stage of history and culture, the same natural surroundings could not occasion a new principle or synthesis of principles. Do self-consciousness, imagination, intelligence, and freedom not play any role in the basic transformation of the material situation? And why should these be exhausted after one epoch? If the principles are wholly *determined* by the natural situation, then it is difficult to understand why they do not unfold all at the same time.

Perhaps Hegel's abortive argument is motivated by his belief in the parallelism of history and logic. In the logical unfolding of the idea, a distinct category can emerge only once, because its meaning, once determined, becomes a subordinate moment of a more complex category. Each category can reappear in order to show a new aspect of the meaning that was already discovered, but such an enrichment is a further unfolding of the first determination (or "principle"), not a fundamental novelty. If peoples are nothing else than embodied and temporally unfolding principles, and if principles are comparable to logical determinations, then we could understand (though perhaps not agree with) Hegel's declaration, but does this have anything to do with the immediate or natural character of peoples?

Hegel thinks that the ruling nation of an epoch has an "absolute right" over and against all other nations. He even says that the latter, including all past nations, are "right-less" (*rechtilos*). Having learned that the state is "the absolute unmoved end of itself, in which freedom reaches its supreme right" (§ 258) and that the sovereignty of states requires them to recognize one another as the highest embodiment of ethical right, we now read that all the

twice. When new true interests emerge in a people, the spirit of that people should will something new. Whence would this newness come? It can be only a higher, more universal representation of itself, a going beyond its principle, a striving for something more universal. But therewith a more developed principle, a new spirit, is present. In world history, a people can be the ruler only once, because it can have received only one task in the process of the spirit."

meanings of "right" clarified hitherto are only "restricted" and relative. *The spirit exercises its absolute right neither through morality nor through Sittlichkeit, but rather through history* (§ 347, cf. § 30).¹¹ The nation's rights must submit to all the fortunes and misfortunes that, from the legal, moral, and political perspectives so far studied ought to be condemned as unjust. The expression "right-less" can only mean that the nations, in the end, will not only be defeated by the spirit's providence, but also lack the right to claim their inherent rights (cf. § 30). Only a triumphant nation (which most often is the strongest and most violent one) is the subject of absolute right, though this right, too, is limited, at least in time.

Hegel does not here retract any of his former considerations, but he makes abundantly clear that none of the former chapters can be taken as *the* answer to the question of freedom and right. All levels of right are sacred because they participate in the formation of the world as the body of the spirit; but to stop at the level of morals or national politics is idolatrous because it does not recognize the principle of all principles: spirit itself as taking possession of itself in history.

World-Historical Individuals (§ 348)

Freedom exists only in the form of free will, which can act only if there is a willing subject. The spirit needs *individual* subjects to be real; it is only through, in, and as acting individuals that the spirit can be said to act (§ 343), to be conscious, or to know (§ 342). This necessity — the necessity of the universal's individualization — has been shown in all the chapters of the *Grundlinien*: the basic *Dasein* of free will and right is a person; morality is the unfolding of individual conscience; the family is headed and encompassed by the father; the state needs a monarch for its unity and sovereignty. The same is true of the actions of the world spirit and the particular nations in which that action is diversified: world-historical actions need individual subjects to perform them; their subjectivity

¹¹ However, in § 279R, Hegel declared that the state has the absolute right because it is the "completely concrete objectivity of the will." What is absolute, when viewed from the perspective of one state, becomes relative when the perspective switches to a higher level.

gives actuality to the spirit's substance (§ 348). In his course of 1824-25 Hegel explains that this substance is concretized in the nations that, in a given period, contribute to the progress of civilization, while the individual actors are only empty forms. Similar to the king whose individuality is the formal condition of the state's sovereignty, a great historical man or woman is a condition for the people's action.

No people can lack these individuals, it generates them as soon as it needs them. [. . .] When the individual is needed, it is there; the people, the time, generates its individuals for itself. The individuals are the empty form of the activity; the substance, the content, lies in the world; it is the spirit of their time; they are only the formal [moment] of insight, character, etc. (Ilt. 4, pp. 7-8).

The same is as true for the nations as it is for individuals who, like Alexander, Caesar or Napoleon, make history: their goals and interpretation of the history they shape are different from the truth seen from the supranational perspective. Their consciousness and self-consciousness are expressions of a specific epoch, but their world-historical meaning reveals itself behind their backs. Most of their contemporaries cannot see their significance, which is why they criticize or condemn them. Only later will they find recognition and immortal fame, because through them the spirit has conquered a higher level of actuality.

Nation-States and Other Peoples (§§ 349-351)

Hegel's treatment of world history focuses on the relations between nation-states, but history itself involves more. Besides the peoples that have organized themselves in public institutions more or less similar to Hegel's definition of the state, other kinds of communities populate the world: families, tribes, hordes, and so on. Lacking the rational organization that gives them an objective ethical character and sovereignty, they are comparable to persons who have not yet discovered and appropriated their freedom. As we have seen, such persons are free only in a formal, not yet realized sense; not recognized as persons, they are in danger of being enslaved.¹² With regard to slavery, Hegel has clearly declared

¹² Cf. Angehrn, art.cit. in note 1, pp. 344-349.

that such treatment is unjust, but explainable. However, regarding the relation between states and tribes, he does not insist on the abstract and formal demand of recognition, which forbids the treatment of any people as prey or as a caste of servants even if it is not yet a state. Rather, he explains why such peoples are not recognized as objectively and actually free and independent. Does he, then, justify conquests, exploitation, and colonialism? No, instead of justifying such actions, he shows rather why they happen. Real history begins with the birth of the state; populations that have not yet reached that level belong to prehistory. Like children, they are innocent but primitive (§ 349 R), and because they are contemporaneous with full grown states, they are treated as barbarians. If they fight for recognition, this might result in the birth of real independence through self-organization (§§ 349-351). When a people is ripe for the transition to a statelike existence, it is the "absolute right" of a founder to transform it into a state, whether this is achieved through violence or not. What must be called injustice from a lower, e.g., moral, level is redeemed by a higher right. The basic right of every people is *to be* (or *to become*) a state (§ 350). "The right of a hero" (*das Heroenrecht*) is the right to transform anarchy into a lawful organization or, in other words, to transfer a multitude of human beings from the state of nature to a state of civilization. Legislation is the basic, and therefore divine, gift that justifies the necessary violence of this passage from "natural" violence to political peace.

Four Realms (§§ 352-360)

The final part of Hegel's *Rechtsphilosophie* provides a triumphant conclusion to his text. The last three sections (§§ 358-360), in particular, seem to express a complete reconciliation of all the elements that have come to the fore in the gradual development of freedom. However, this conclusion is possible only by anticipating the dimension of absolute spirit, which is not explained in this book. Still within the last chapter on *Sittlichkeit*, Hegel introduces his theory of absolute spirit, without warning the reader that this dimension should be carefully deduced and analyzed; he does not even refer to the distinction between objective and absolute spirit explained in Enc A 304-305 and 452 ff.

Interpreters who fail to notice the “infinite” difference between objective spirit and absolute spirit (Enc A 305 & R) risk reading the end of the *Grundlinien* as the conclusion of Hegel’s entire philosophy. Some even conclude that this philosophy is a form of historicism. Even a superficial study of Hegel’s logic would show how mistaken such an interpretation is, and many other parts of Hegel’s system also clearly indicate that time, first and second nature, objectivity and historicity are too finite to take the place of the ultimate reality. Succession and temporality are essentially forms of transition; they receive their meaning and existence (*Dasein*) from the Infinite, i.e., from the Idea as fully actualized in the self-knowledge of absolute spirit. Only by blending the dimension of this self-knowledge with the most perfect form of ethical life, can Hegel sketch a picture of world history in which the history of *Sittlichkeit* (as the history of states) is combined with the historical unfolding of *art*, *religion*, and *philosophy*. The price he pays for this blending is a blurring of the concept “world history.” Since “right” is the name for the spirit’s *objective* freedom — the actualization of the spirit as second *nature* — it cannot summarize the final triumph of civilization, which presupposes the spiritualization of both natures. *Sittlichkeit* is only an element of the gnosis that is the result of a double history.¹³



The general interpretation of history as a succession of nation-states whose self-understanding reveals “the concrete ideas” (§ 352) in which the spirit of the world differentiates itself in order to display, understand, and enjoy its full riches, is made concrete in the outline of a world history sketched in §§ 352-360. History is the temporal, successive, and therefore finite, manifestation of the infinite self-knowledge through which the spirit’s absoluteness “liberates itself from the form of natural immediacy.” Only by sublating the naturalness of geographically and anthropologically determined peoples (§ 346), i.e., only by transforming the spirit’s objectivity into the embodiment of the spirit’s religious and

¹³ Other passages in which world history encompasses both objective spirit and (parts of) absolute spirit, are the following: Enc A 464; Enc BC 562R; and Su 18, p. 74. Cf. Enc BC 384R.

philosophical self-consciousness, can history transcend the mixture of justice and violence characteristic of its natural imperfection (§ 352). The history of the nations is the genesis of the knowledge through which the spirit recognizes itself as the truth of the universe. One people after another functions as a partial realization of that knowledge, but from the perspective of the fully developed, eternal spirit itself, all peoples can be described with words reminiscent of Daniel's vision of the four realms (Dan 2: 31-45 and 7: 7-28) and the retrieval of those prophecies in John's *Apocalypse* (12-13; 20, 4; 22, 5): the nations are assembled "around the throne of the world spirit, as enactors of its actualization and as witnesses [. . .] of its glory."

Until this point, Hegel has identified the highest level of *Sittlichkeit* with a multitude of peoples or states, but now, suddenly, he introduces four world-historical supersubjects called *realms* (*welt-historische Reiche*), ensembles, or constellations of peoples that have occupied a specific region of the earth and ruled it during a determinate period of history. The principle of his hermeneutic is taken from the difference between knowledge and objectivity, as explained in the preceding sections, a difference that — as subject versus object, idea versus nature, subject versus substance, and concept versus reality — dominates Hegel's entire system. At the same time, another dialectic is unfolded: the contrast between singular individuals and the universality or totality to which they belong. In the beginning of history, individuals do not count; they are only moments of the universal essence; but history is the process of both the reconciliation of the universal with the singular and the unification of objectivity with subjectivity (§ 352).¹⁴

Alluding to the four beasts of Daniel's vision, Hegel divides the entire history into four periods, thus claiming that the imagination of a prophet can be translated into the dialectics of a philosopher.

The end of world history, as it has developed until Hegel's time, is the reconciliation of oppositions that have emerged in the

¹⁴ Not only do nations mature like human individuals, the stages of world history can also be compared to the phases of human growth. See *Vernunft/Geschichte*, p. 156: The Orient represents the world spirit's childhood, Greece its growth, Rome its adult maturity, while the Christian world (which coincides with the Germanic age) represents its old age. However, Hegel warns that the comparison is not adequate, especially with regard to the last phase (p. 157).

second and third periods: thus, it is a coming back (*zurückgekommen*) and a return (*zurückgekehrt*) to the first realm. This is transposed to the higher level of a fully differentiated synthesis of its contrasting elements (§ 353). In the nations that belong to "the oriental realm" (§§ 353, 355), the spirit reveals itself as immediate and undifferentiated substance. Heaven and earth, spirit and nature, religion and politics, morality and right coincide as aspects of the all-encompassing substance. Singular subjects are moments without independence. Besides China, Babylonia, and Persia, Israel belongs to this realm. As the summit of oriental history, it is the birthplace of the reconciling principle, which, after the second and third period, will save humanity. Returning to the initial substantiality (§ 353), the Germanic nations form the new Israel in which the substance has become the self-conscious subject of modern nation-states (cf. § 358).

"Germanic" is Hegel's word for the ensemble of the Christianized nations of Europe. The "Germanic" world¹⁵ began when barbaric nations overpowered the Roman *imperium*. West- and Eastgoths, Alemans, Franks, Scandinavians, Normans, Longobards, Burgundians, Anglos, Saxons, etc., once established, assimilated the Roman culture and the Christian religion and established "the Germanic realm," which others would call European Christianity. It includes the "Romanic" (*romanische*) nations of France, Italy, Spain, Portugal, etc., which represent a mixture of Roman and Germanic elements. In his philosophy of history Hegel describes the three periods of this realm, the last of which began with the reign of Charles V and is still developing its potentialities.

The ideal form of the Germanic realm is contrasted with other realms which are full of contradiction, rooted as they are in the scission between the divine substance and self-conscious individuality. These realms have developed through the history of Greece and Rome (§§ 356-359). The details of this evolution, summarized in §§ 356-359, are hardly understandable without familiarity with Hegel's courses on the history of ethics, religion, and philosophy. The concentrated summary of the entire history (including the histories of "right," art, religion, and knowledge) that Hegel offers at the end of the *Grundlinien* only indicates the overall synthesis

¹⁵ Su 12, pp. 413-540; *Weltgeschichte*, volume 4, pp. 757-938.

that has been realized, despite all lingering forms of injustice that continue to plague the world.¹⁶

In Greece, the principle of subjectivity emerged as distinct from the principle of substance, which governed the Orient. A first, fragile synthesis of substance and subject was realized in the self-conception of the free polis, but subjectivity could not yet be fully integrated. As the power of the ultimate decision it hovered over the people in the form of Moira, while its concretization in human needs — and the economical activity that goes with it — was despised as slave labor (§ 356). In the Roman Empire, all contrasts and tensions reached their paroxysm. The state disintegrated into a mass of private individualities, spread out over a multitude of peoples, while their abstract equality was symbolized by the gods of a Pantheon in which the differences no longer mattered. In the midst of this “death of ethical life” (§ 357), the spirit returned to Israel to comprehend and unfold the unity of the human and the divine, from which Christianity developed (§ 358). This unity permitted the integration of all the discoveries made during Greek and Roman history. Throughout the medieval period, marked by oppositions between the world and the spiritual power, the spirit prepared its final, modern, and enlightened conquest. Today, these oppositions are for the most part overcome: heaven and earth finally coincide; the state is the objective actuality of reason, which recognizes, feels, represents, and understands itself as the secret of nature, state, and culture (§ 260).

¹⁶ According to *Vernunft/Geschichte*, pp. 242-243, world history follows the course of the sun; its course is “the great day of the spirit, its work of one day” (p. 242). “World history goes from East to West; for Europe is simply the end of world history, while Asia is the beginning.” However, Hegel elsewhere affirms that America is “the land of the future” (Su 12, p. 114).

CHAPTER THIRTEEN

ETHICS AND RELIGION

Toward the end of one of his last courses on the philosophy of world history, Hegel looked back on the French revolution of July 1830 and summarized his diagnosis of the political situation with the following words:

Again a rupture has been accomplished and the [French] government is fallen. After forty years of wars and immense confusion, an old heart could finally enjoy the satisfactory perspective of an end to all those troubles; one could cherish the hope that a lasting reconciliation would establish itself. However, though a fundamental problem has been solved, there now remains this rupture [caused] on the one hand by the catholic principle, and on the other hand by the principle of the subjective will.¹

Hegel then continues by characterizing both principles that threaten the post-Napoleonic nation-state and the problems that future history must solve. "Liberalism," the tendency attacked so often in the *Grundlinien*, is described as the conception according to which the universal will coincides with the empirical generality of all citizens as singular individuals. The liberals are not satisfied with an organization of the state that merely guarantees the rights of persons and property within the free space of civil society. Instead of a system in which the people trust and cooperate with their competent leaders, they fight for "free" participation in the political power, thus opposing the principle of social atomism to the principle of ethical organization.

A characteristic of "the catholic principle" remains implicit in the rest of Hegel's course, but the contrast between the Catholic and the Protestant conceptions of religion and politics continues to play an important role in Hegel's view of the relations between politics and religion, especially in the last years of his life. A clear statement of his anti-Catholic stance can be found in the long

¹ *Weltgeschichte* IV, pp. 932-933.

Remark to § 552 of the *Encyclopedia* of 1830. However, because some interpreters have argued that Hegel's conception of religion underwent a transformation between 1820 and 1830,² I will concentrate here on the *Grundlinien* and some texts written immediately before and after 1820.

In the *Grundlinien*, very few sections mention religion as an important part of the state and the life of its citizens. In §§ 137R and 261R "religious conscience" and "religious obligations" are mentioned only to be excluded from the philosophy of right, but in the final section (§ 360) religion is briefly presented as a constitutive element of the fully developed state. The only text in which religion is treated explicitly is the very long remark to § 270, where Hegel formulates his position with regard to the then hotly debated issue of the relationship between religion and the state.

It is difficult to find a more confused and confusing text in Hegel's oeuvre than this remark. Not only does it presuppose several distinctions and questionable theses that are justified elsewhere or not proved at all, it also mixes essential features of religion with incidental considerations without clearly distinguishing between the two. In the only place in his book where Hegel could have given a scholarly explanation of how ethics and

² Cf. Franz Rosenzweig, *Hegel und der Staat* (München: Oldenbourg, 1920), vol. 2, pp. 214-215, and Walter Jaeschke, "Christianity and Secularity in Hegel's Concept of the State," in *Assessments IV*, pp. 461-478. With respect to the issues of this chapter, see also other important articles of Jaeschke: "Kirche und Staat bei Hegel," in *Reports on Philosophy* 9 (1985): 5-19, and "Politik, Kultur, und Philosophie in Preussen," in Otto Pöggeler and Annemarie Gethmann-Siefert (eds.), *Kunsterfahrung und Kulturpolitik im Berlin Hegels* (Bonn: Bouvier, 1983), pp. 29-48. A comparison of Enc B 563R with Enc C 552R shows that Hegel sharpened his criticism of Catholicism in the later twenties, but I doubt whether the difference between his position in GrI 270R and the later one implies a fundamental change in his conception of the relations between the state, religion, and philosophy. In "Religion et politique dans la philosophie de Hegel" (in Guy Planty-Bonjour [ed.], *Hegel et la religion*, Paris: Presses Universitaires de France, 1982, pp. 37-76), I have tried to show the core of Hegel's view of the relationship between politics and religion and its basic continuity as it unfolded between 1817 and 1831. A clear explanation of GrI 270R can also be found in "Bemerkungen zum Verhältnis von Staat und Religion bei Hegel," in *Der Staat* 21 (1982): 481-503 by Ernst-Wolfgang Böckenförde, who also wrote a good historical overview, "Die Entstehung des Staates als Vorgang der Säkularisation," in *Säkularisation und Utopie: Ernst Forsthoff zum 65. Geburtstag*, in *Ebracher Studien* 1967, pp. 75-94. For a thorough study of religion in relation to politics as seen in the various periods of Hegel's thought, see Herbert Scheit, *Geist und Gemeinde: Zum Verhältnis von Religion und Politik bei Hegel* (München: Pustet, 1973).

religion are related, he loses himself in a series of scattered attacks on bad forms of religion, while entirely disregarding the possibility that the ethical situation could be less rational than the one pictured in his own idealized image of the state. § 270R, together with the Preface of the *Grundlinien* and the even longer remark to § 140, belongs to Hegel's campaign against the moral, ethical, religious, and philosophical subjectivism that he sees as the greatest danger of his time. The biased character of the text makes it difficult to isolate its doctrinal core. Some help can be found in Hotho's course notes of 1822-23 (Ilt 3, pp. 729-740) and Griesheim's notes of 1824-25 (Ilt 4, pp. 645-651), but to gain an impartial perspective, we also need to consult a dispassionate text such as the *Encyclopedia* of 1817, where the relations between objective and absolute spirit (including those between right, morality, civil society, state, religion, and philosophy) are developed systematically and without attention to the specific political problems of Prussia in 1820.³ In order to draw a line between the biases expressed in § 270R and the principles Hegel should have forwarded, I will begin by explaining the relationship between religion and the state that follows from the basic principles explained in Hegel's *Encyclopedia*⁴ and *Grundlinien*.

The State Knows What It Wills (§§ 257-270)

As the *telos* and perfection of the objective spirit's ethical life, the state is the unfolded actuality of the will, "the spirit's ethical actuality that knows itself" (Grl 270R, p. 232). It includes certain forms of perception and insight, but all these forms of knowledge are subordinate to the decisions by which the freedom of the spirit

³ The articles of Jaeschke cited in note 2 clarify the historical context to which Hegel implicitly refers, while Böckenförde, in *Bemerkungen*, indicates several of the religious, literary, and theological targets of Hegel's remarks in § 270R. See also the useful notes of Allen W. Wood in *Elements*, pp. 458-460.

⁴ Enc A 453-471. Cf. "Religion et politique . . ." (See note 2), and *Selbsterkenntnis*, pp. 58-115. For a thorough and informative study of Hegel's thoughts on religion between 1818 and 1831, see Laurence Dickey, "Hegel on Religion and Philosophy," in *Companion*, pp. 301-347. For the relationship between objective and absolute spirit, see Walter Jaeschke, "World History and the History of the Absolute Spirit," in Robert L. Perkins (ed.), *History and System: Hegel's Philosophy of History* (Albany: State University of New York Press, 1984), pp. 101-116.

concretizes itself in the institutions and customs that have been described. At the end of the introduction (Grl 257-270) to his treatise on the state, Hegel reminds us that the will that expresses itself in the state's actions is a self-conscious and rational, and to that extent, intelligent and knowing will: "the substantiality" of the state "*has passed through the form of a Bildung*" and become a "spirit that knows and wills itself." Since the state, as universal will, does not limit itself to singular decrees, but also rules itself through universal laws, it "*knows what it wills* [. . .] in its *universality*, [i.e.,] as *thought (Gedachtes)*; it acts therefore according to known (*gewußten, gekannten*) goals and principles" (§ 270).

For a correct interpretation of Hegel's distinction between the objective and the absolute spirit (and therewith his distinction between the state and religion) it is crucial to understand what kinds of "knowledge" are included in his conception of the state. The various kinds that have been deduced throughout the *Grundlinien* encompass the state's constitution (which has grown out of the implicit wisdom of a historical people), the necessary information about the national and international economy, the arguments and insights implicit in the deliberations on political matters and the making of laws by the government in cooperation with the chambers, the reasoning that prepares judicial decrees and political decisions, the cumulative experience of skilled politicians, and so on. All these kinds of knowledge, however, fall outside the realm of philosophy proper, and it would be easy to enumerate parallel kinds of reasoning and insight within the churches. Since Hegel's state is rational, it can be justified by philosophy, but a philosophical (not political) justification does not make the state more thoughtful than organized religion. The latter is equally justifiable if it responds to the conditions of Hegel's rationality.

A necessary and fundamental but also very immediate form of "knowledge" is the patriotic *Gesinnung* and the trust included in it, which assures the citizens that their state realizes and protects their true freedom (§§ 267-268). It is the subjective, internal aspect of the state's substance, whose objective side is its political constitution (§ 268). As self-consciousness of the citizens' unity with their universal will, the *Gesinnung* guarantees the cohesion of their community and the unhampered functioning of the state's organization.

The patriotic *Gesinnung* can develop into a more explicit and more reflexive form of self-consciousness. Reasoning and reflection can show to what extent a particular state, through its more or less rational structure and way of life, deserves the trust of its citizens. A philosopher can even prove that the rational state portrayed in the *Grundlinien* deserves full trust; but it is obvious that most citizens are unable to attain such a knowledge of their state. Not even the leading politicians have a philosophical comprehension of the state, even if they are open to advice from philosophers.

One thing is very clear about the "knowledge" that is implied in the willing of the state, though Hegel nowhere states it explicitly: the state as such is *not* led by a philosophical kind of knowledge, even if past or present philosophers might have had some influence on its laws and decisions. Hegel certainly hoped that the established powers of civil society and state would be led more and more by philosophically justified principles; both the *Grundlinien* and his courses on *Rechtsphilosophie* for future lawyers, politicians, and civil servants were meant as contributions to that end. In his Heidelberg course of 1817-18 he also states that a specific class (*Klasse*) of the nation must be dedicated to the knowledge a state needs, and he complains that the states of our times are still far from establishing institutions for the education of the entire population in religion, art, and science. Universities and academies have replaced the former monasteries as centers of knowledge, but they do not reach everybody. "The state must establish itself through its institutions as a temple of reason" (Wa 244-246). However, he does not project the utopia of a state ruled by philosophers.

And yet, the knowledge that is presupposed in the rationality of the state's praxis must be rooted in the self-consciousness of the nation's spirit. If this self-knowledge cannot consist of a universally shared philosophy (in the strict conceptual or "scientific" sense of this word), where then can it be found? Hegel's answer is religion. It is one and the same spirit that is actualized objectively or externally in the state and subjectively in the interiority of religious feelings and faith, and in the ethical *Gesinnung* that follows from them. Religion is therefore the foundation (*Grundlage*) of the state.

The idea, as [actualized] in religion, is [the] spirit in the interiority of the heart (*Gemüt*); but it is the same idea, which provides worldliness for itself in the state, while giving itself *Dasein* and actuality in [the state as] that which knows and wills (Ilt 3, p. 732).

That the state is founded on religion means that the state emerges from the rationality of the underlying religion. If this religion is free, the state is the worldly organization of freedom, whereas a despotic religion externalizes itself in an unfree state (ibid., pp. 732-733).

Hegel's free state deserves respect, but how is this recognized by the entire people? Philosophy recognizes freedom through the universal validity of its conceptual insights, but "this insight cannot be general." The only other way is to discover that the state is rooted in religion, i.e., in the faith that the state is led by divine providence, and this is the way of the people (ibid., pp. 733-734).

If the true, i.e., truly free, state is founded on true religion, the doctrine of the *Grundlinien* presupposes Hegel's philosophy of the true religion. It is therefore necessary to have at least an outline of this religion as Hegel sees it.

Religion (Enc A 453-471)

Hegel's most systematic text on religion from the years that precede the *Grundlinien* is the last part of the *Encyclopedia* of 1817: §§ 453-471. Because of the restricted purpose of the present book, it is not necessary to give a complete explanation of this part.⁵ However, the following elements are essential for a determination of the relations between Hegel's conception of the state and his conception of religion.

A first feature that strikes the reader of Enc A 453 ff. is that the distinction between art and religion is blurred; this is already expressed in the title, which presents (Greek) art as a religion: "The religion of art" (§§ 456-461). The second is that philosophy is distinguished from (the religion of) art and "revealed religion" (§§ 465-471) not by its content, but rather by its form: philosophy

⁵ The explanation of the Christian religion in Enc A 465-471 is essentially identical with the one in Enc C 553-577. For the latter, see *Selbsterkenntnis*, pp. 79-110.

conceptually comprehends as a necessary and free unity the same content that art and religion represent as a spatiotemporal and contingent multiplicity. To simplify things, we could say that art is the religion of the Greeks, true religion is the Christian religion, and philosophy is the scientific proof of the Christian religion. Another very important feature, which has not received much attention in the secondary literature, becomes obvious when we reconstruct the overall structure of Hegel's philosophy of spirit (Enc A 299-477), and especially the development that follows the emergence of *reason* (§§ 359-362) and *spirit* in the emphatic sense of § 363 ff.⁶ In Chapter Two we saw how (subjective) spirit encompasses two components: intelligence as theoretical spirit (§§ 366, 368-387), and free will as practical spirit (§§ 366, 387-399). Both the treatise on the objective spirit (§§ 400-452) and the parallel sections of the *Grundlinien* show that the philosophy of right is the actualization of the practical spirit: "The objective spirit is [. . .] *free will that is for itself as free will*" (§ 400). This identification of objective spirit with the unfolding of the will is also emphasized in the preceding section 399, in 387 (cf. Enc C 482, where the emphasis is even stronger, "*nur im Willen*"), and in 468. Though § 400 also presents objective spirit as "the unity of theoretical and practical [spirit]," explaining that its will is a will that "*thinks itself, will as free intelligence*," § 453 states more clearly that the intelligence included in the will's objective realization is free *only* "*an sich*," not "freed into its concept" and not yet existing as a worthy configuration (*Gestalt*) of its concept. In other words, within the framework of the objective realization of free will, intelligence (or theoretical spirit) remains subordinate and — at least partially — implicit, without actualizing itself in an appropriate *Dasein*. The latter can only be found in the knowing (*Wissen*) of absolute spirit.

The *concept* of spirit [as subjective, theoretical as well as practical spirit] has its [objective] *reality* in [objective] spirit. In order to be as the *knowing* of the absolute idea in complete identity with that [concept of subjective spirit], it is necessary that the *in itself* free intelligence [included in the objective spirit] free itself into its concept to be the worthy figure (*Gestalt*) of this concept. Subjective

⁶ Cf. *Selbsterkenntnis*, pp. 38 ff. and *Hegels prakt. Phil.*, pp. 20-32.

and objective spirit can therefore be seen as the road on which this side of the *reality* or existence [of the spirit as actual concept or knowing of itself] is developed (§ 453).

The unity of the theoretical and the practical, which in § 400 is given as characteristic of the objective spirit, thus cannot coincide with the *Aufhebung* of subjective and objective spirit defined in § 453. Hegel's emphasis in § 400 that the will also encompasses intelligence must be understood as a reminder that free will, according to § 387, is fundamentally or *an sich* identical with intelligence and thus is different from an arbitrary and irrational capacity of wanting or choosing (*Willkür*, §§ 393-397).

The unfolding of the philosophy of right in both the *Encyclopedia* and the *Grundlinien* constitutes Hegel's *entire* practical philosophy. Here intelligence plays a subordinate role as the legal, moral, civil and political *phronesis* needed for the promulgation of rational laws and appropriate decisions. However, in the absolute spirit, as is outlined in Enc A 453-477, *Wissen* (the contemplative knowledge of the truth produced by intelligence) is everything, while not one word is spent on the practical element of spirit. Art (or "the [Greek] religion of art"), (Christian) religion, and philosophy are presented as merely theoretical activities; nothing is said about the practical demands, laws, or actions that follow from faith or philosophy. The complete and perfect reality of the spirit is "the *knowing* of the absolute idea," in which intelligence has become the fully appropriate, free configuration of its concept (§ 453). Even the worshiping of the Greek gods, mentioned in the first part, "the religion of art," is restricted to *die Andacht* (devotion), i.e., "concentration on thought" (*die Versenkung in den Gedanken*), accompanied by "enthusiasm" and "enjoyment" as elements of "the *universal knowing*" of a "merely *internal* subjectivity" (§ 463). Similarly, Hegel's interpretation of the revealed (i.e., Christian) religion (§§ 465-471), in which worship is not even mentioned, completely ignores the most fundamental command of love for God and neighbor, while reducing the entire religion to a combination of representation (*Vorstellung*) and intuition (*Anschauung*). In most of his other texts on religion, e.g., in GrI 270R, Hegel adds faith (*Glaube*) and feeling (*Empfindung* or *Gefühl*) to *Anschauung* and *Vorstellung*, while refusing to present the spirit of Christianity as a source of a practice beyond the level of right as displayed in

his philosophy of right. Forgetting, ignoring, or repressing his own former exegetical studies about evangelical compassion, love, and forgiveness,⁷ he now characterizes Christian faith as a purely *interior* and purely *theoretical* dimension of modern man.

However, nothing can remain merely interior or merely theoretical, because the spirit also encompasses their opposites: the exterior and the practical. Within the religious dimension, the first form of externality is the free association of those who share the same faith, an association that presupposes various practical features: conditions for membership, regulations, mutual duties and rights, schedules of services, etc. These features constitute a religious community (*Gemeinde*), which together with other religious and non-religious associations and corporations, has a place and function within the limits of civil society (GrI 270R, p. 227). The legal, moral, economic, and political rights and obligations of such a community do not differ essentially from those of other associations, except insofar as the religious community fulfills tasks that are politically relevant and approved by the state (see below).

However, if the Christian religion is the form in which most if not all modern people participate in the life of absolute spirit, its external and practical expression cannot be confined to that of a private association. As self-consciousness of the all-encompassing truth, its exteriority and practice must also have a public and universal character. Now, it is Hegel's thesis that the external, public, and practical realization of the spirit's religious self-consciousness is nothing other than the world of "right" (or the spirit's worldly objectivity) displayed in the *Grundlinien*. The ethical (i.e., political, civil, familial, moral, and legal) consequences of true religion completely coincide with the demands of free will in its self-actualization as "right."⁸

⁷ Cf. *Le jeune Hegel*, pp. 144-197.

⁸ From this thesis it follows that religion does not widen the content of morality, right, and ethicality, which is described in the *Grundlinien*. The universal truth of Christian *agapē*, for instance, is entirely captured by the philosophy of "right," and specifically *religious* duties can only concern the private relations of members of religious communities. Cf. GrI 137R (last sentence) and 261R (p. 216).

Religion and State (Grl 270R)

"The essential determination about the relationship between religion and state" follows from the concepts of state and religion (Grl 270R, p. 221). As infinite self-consciousness of the absolute (i.e., originary, complete, and perfect) spirit, religion knows the state as the worldly, sovereign but finite, actualization of that same spirit. The state, in its turn, recognizes the spirit that contemplates itself in religion as its own. Religion and state are two faces of the one and only actual and self-aware spirit. In one of the most straightforward passages of Grl 270R, Hegel formulates this insight thus:

The content of religion is absolute truth; therewith it also encompasses the supreme disposition (*Gesinnung*). As intuition, feeling, representational knowledge about God as unlimited foundation and cause, on which everything depends, it contains the demand that everything be also understood in this relationship and thereby acquire its confirmation, justification, and certification. In this relationship, the state, laws, and obligations acquire their supreme sanction (*Bewährung*) and binding force for consciousness; for even the state, laws, and obligations are in their actuality something determinate [and finite] which passes over into a higher sphere, [scil.] into their foundation (Enc [A] 453). Therefore, religion is also the dimension that offers the awareness of the unchangeable and of supreme freedom and enjoyment despite the loss of actual ends, interests, and property. If religion thus constitutes the *foundation*, which contains the ethical [dimension] as such, and more precisely the state, as the divine will, it is at the same time only *foundation*, and it is at this point where both differ. The state is the divine will as the present spirit that *unfolds* itself into the actual configuration and *organization of a world* (pp. 221-222).

Since religion and the state constitute the ultimate actuality of the spirit according to both its internal, contemplative, and subjective aspect and its external, practical, and objective aspect, one cannot exist without the other. If the citizens of a true state profess an untrue religion, or if the faithful of the true religion inhabit an irrational state, revolution is imminent because of the discord between the spirit of the state and the subjective disposition (*Gesinnung*) of its citizens. One spirit must unite the ethical and the religious sides of the communal life. This implies that a specific type of state presupposes a specific type of religion. The Greek polis, for example, could not exist without the "religion of art"

outlined in Enc A 456-464 and Hegel's state, as an expression of the modern spirit, cannot exist if the mindset of its citizens is not rooted in the "revealed" religion (Enc A 465-471).

If Hegel's Remark to § 270 is meant to "touch upon *the relationship of the state to religion*" (p. 220), we would expect that he would develop the relations that follow from the pure concepts and actualizations of both in order to show how they are mutually inclusive, after which he could have focused on possible distortions or perversions of religion and/or the state.⁹ However, besides

⁹ In the courses on the philosophy of right of 1822-23 and 1824-25, Hegel is less biased than in GrI 270R. In these courses, he begins by clarifying the relation between the state and religion as the relation between a finite external and an infinite internal domain:

[. . .] the state shows itself as the domain of worldliness, whereas religion displays itself as the domain of infinity (Ilt 3, p. 730).

This view, whose correctness Hegel does not contest, is unilateral because the state also has "a lifegiving soul," which is its "infinity" (p. 731), namely, its rationality.

That the worldly spirit, [i.e.,] the state, is only finite, is a unilateral view because the actuality is not irrational. True, a bad state is worldly only, finite only, but the rational state is equally infinite in itself (Ilt 3, pp. 731-732).

If "infinity" is synonymous with rationality, all things that are not bad or distorted can be called infinite, as Hegel often calls them. However, the rationality of the state, displayed in the *Grundlinien* without reference to any theory of religion, does not justify putting the state (as worldly) on the same level as religion, which is its foundation (*Grundlage*); self-consciousness of the world is a higher development of the spirit's life than its externality.

The idea as [realized] in religion is [the] spirit in the interiority of the heart, but it is the same idea which gives worldliness to itself in the state [. . .]. When we say that the state must found itself on religion, this can mean that the state must rest on and proceed from rationality (Ilt 3, p. 732).

The "unilaterality" of the view according to which religion relates to the state as an infinite figure of the spirit to a finite "world," is not contradicted by the fact that both religion and state, if thought according to their ideas, are rational. Against this interpretation someone might object that Hegel uses the word "religion" to indicate his own faith in reason, so that the statement "religion is the foundation of the state" in his mind means that the true state is founded in philosophy. However, this view would still maintain the difference between the (interior) infinity of philosophy and the (exterior) finitude of the state and, in addition, it contradicts the explanation of "foundation" that is given following the quoted sentences. Hegel declares that the citizens' respect for the state can emerge in two ways: (1) through philosophical comprehension of the state's rationality ("this insight cannot be a general one"), or (2) through religion (which is available to everybody). In both cases, the citizens are convinced that the state is rooted in the highest dimension of spirituality. The latter way provides the people with the *Gesinnung* needed by the state (Ilt 3, pp. 733-734;

the passage quoted above and a few other sentences, the bulk of his long remark is an aggressive polemic against false forms and conceptions of religion from the standpoint of the ideal, philosophically justifiable, and perfect state. Though none of the existing states conforms to Hegel's picture of a true state, this picture is taken as the criterion to denounce subjectivistic and other distortions of religion. Clearly, together with the Preface, § 140R, and several Remarks on the state (e.g., § 258R), § 270R belongs to Hegel's crusade against subjectivism in politics, morality, and religion. Without naming them, he attacks student fraternities, certain romantics, philosophers such as Fries, some of his colleagues in theology, and certain ecclesiastical, as well as political, authorities that took a stand with regard to the concrete problems posed by the recent Prussian acquisition of the Catholic provinces in the Rhineland.¹⁰ Hegel's mixture of principled considerations and obsessive attacks on his *bête noire*, romantic subjectivism, confuses and obscures his argument. This can be illustrated by an analysis of a passage that opposes the state and its laws, as an actuality founded in and produced by thought (*Gedanke*), to religion, as a matter of subjective feelings. Against certain political claims of the Churches, Hegel insists on the knowledge and the principle of universality and free rationality that is actualized in the state. The

cf. Su 17, pp. 69, 274, 305; and *Vernunft/Geschichte*, p. 109). Hegel's commentary on GrI 270R in Ilt 4, pp. 645-651 is more straightforward:

The state is the spirit that stands in the world, the spirit as the empirical consciousness of a people. Thus, the state is not the highest form in which the spirit is for itself; this is reached only in religious self-consciousness. But the state is the spirit that knows itself in this worldly *Dasein*. The spirit of the state and that of religion is one [and the same] spirit [. . .]. The state rests on religion; religion is its truth [. . .]. The state's truth and principles are identical with the spirit of the [true] religion, and religion is the true mode in which the spirit as absolute is known. [. . .] Something is true only insofar as we know its relation to our absolute consciousness, our absolute spirit. In itself the state rests on religion and emerges from the principle of religion [. . .]. The state is authorized by religion [. . .]; the spirit of religion manifests itself not only for mere consciousness, but also in the actuality of a people [. . .]. It is obvious that a muslim state must be entirely different from a Christian state [. . .]; and that the Evangelical religion gives rise to another political life than the Catholic religion [. . .]. Religion is thus the ground of the state (Ilt 4, p. 646).

¹⁰ Cf. the articles of Jaeschke and Böckenförde cited in note 2, and *Philosophy and Politics*, pp. 15 ff.

state knows (*weiß, erkennt*) and realizes the rational and free universality in its laws and objective institutions. In order to refute religious claims that would contradict the claims of the state (*and Hegel clearly implies that he is talking about the factuality of Prussia*), he emphasizes that religion is not a question of objective thought (*Gedanke*) but a combination of feeling, conscience, belief, subjective conviction, authority, and immediate certainty (pp. 229-230; cf. pp. 224 and 226).

The above argument is not only biased, it is false. What Hegel opposes here is not the state and religion, but rather the dream of a *philosophically* thoughtful state and a pietistic, purely sentimental and authoritarian religion without thought or theology. As we have seen, the state does *not* think, if thinking and thought are taken as synonymous for philosophical thought. The *implicit* logic of a state can be made explicit and tested by philosophy, but the same is true of religion, as many of Hegel's texts state. With regard to all the historical cases of which Hegel was aware, the verdict of his own philosophy is that no state, and certainly not Prussia of 1820, thinks correctly.¹¹ All past and present states are faulted by his (i.e., true) philosophy, although Hegel tries to show — and to some extent does show — that the fundamental principles operative in the most advanced states are sound. Even Hegel's own state does not "think" because philosophy is not a central institution of its constitution. For the freedom and rationality of a state it is enough that Reason works in it in a pre-philosophical, intuitive, conscientious, *religious* manner. Even according to Hegel's philosophy of history, this has always been the case: the Greek polis was the political expression of the Greek mythology and a modern Western state expresses the "Christian" principle of subjectivity.

¹¹ Hegel opposes the true idea of the rational and free state to the deficient states of the past, while avoiding the question of whether any contemporary state satisfies the constitutive conditions of that idea: "That historically there have been barbaric times and situations in which all higher spirituality was located in the church, while the state was only a worldly government of violence, arbitrariness, and passion [. . .], belongs to history" (p. 228). To confirm his suggestion that the present has overcome "that abstract opposition," he refers to § 358, though he means § 359, where he claims that the medieval world illustrates that barbaric opposition. The harmony between religion, state, and philosophy, sketched in the last section of the *Grundlinien* (§ 360), is an idealized picture of the form that the modern principle will one day take— if all goes well.

Religion is indeed the foundation (*Grundlage*) of the state, and since neither an entire population, nor the king and his assistants are philosophical specialists, the religious foundation, as the generally accepted configuration of the rational spirit, is sufficient. While philosophy is the highest tribunal of the truth, nothing guarantees that the universality and "thought" expressed in the existing laws of existing states can be justified by true philosophy.

In all his analyses of religion and of absolute spirit in general, Hegel has presented religion, together with philosophy, as a higher and thus deeper and more fundamental dimension than the not-yet-absolute (i.e., *not-yet-self-knowing*) dimension of the state. Only if the state is taken to include philosophy could it be contrasted with a religion divested of theology, which he would then see as a lower, naive level of self-consciousness. As objective spirit, however, the state represents a lower, more naive stage of intelligence than religion, insofar as there is more self-consciousness and "self-thought" in religion than in the state's right. It is true that religion, like the state, contains its "thought" in a naive and implicit form; philosophy is needed to make the truth of religion explicit and comprehensible. From the perspective of philosophical thought the state and religion are therefore equally naive and corruptible. But even philosophy can be irrational. In any case, the form of religion is higher — and as we will see, more encompassing — than the so-called "thought"-ful form of the state, because the affective and imaginative realm of religion is the condition for the emergence of politics.

If Hegel had adopted the perspective of the true religion (which for him was his version of Protestantism) in treating the issue at hand, he could have pointed out how little Prussia and other states at that time had fulfilled the "Christian" principles of his philosophy (cf. § 124R). However, he preferred to place the burden on the Churches, suggesting that the existing state was on the side of true philosophy.

While emphasizing that religion, as the "*subjective figure of the truth*" relies on "*assurance and authority*," Hegel points out that "*freedom of thought and science have emerged from the side of the state.*" "A Church" (his euphemism for the Catholic Church) has burned at the stake Giordano Bruno and condemned Galileo (pp. 230-231). From the presumed affinity in thought between the state and

science/philosophy Hegel concludes that they belong together *vis-à-vis* religion.

“Science” (*die Wissenschaft*) therefore has its place on the side of the state, for it has the same formal element as the state; its end is *knowledge* (*Erkennen*): more precisely, the knowledge of the thought-through *objective* truth and rationality (p. 231).

Hegel immediately concedes that philosophy, too, can degenerate into the utterings of arbitrary opinions (which offers him an opportunity to attack some progressive or progressivist university professors, p. 232), but again, the *form* of thinking is offered as an indication of a more trustworthy element than the affective and authoritative form of religion, while the *content* (i.e., the actual truth) of the existing religion, philosophy, and state is not questioned. And yet, Hegel has stated elsewhere that (true) religion and philosophy found the objectivity of the state and share one (true, inner and outer, spiritual and worldly) spirit with it. If state, religion, and philosophy are three versions of the same spirit — its “world,” its affective and representative self-consciousness, and its conceptual self-knowledge — how then could there be any conflict? Conflicts can only emerge from corruption or distortion of one or more versions of that spirit. But why should all the suspicion be directed at religion, and not at the state or philosophy?

In fact, Hegel’s *Encyclopedia* shows that *true* or “revealed” religion completely coincides with the *true* state and that both are versions of the same truth and spirit; but neither the existing state, nor the existing religions are pure versions of their own idea. Hegel presents his conception of the true religion as the Protestant, and, more precisely, the Lutheran understanding of Christianity. Even the slightest familiarity with Luther’s fulminations against Aristotle, reason, and philosophy in the name of faith suffices to make Hegel’s claim incredible; however, his familiarity with the seminary theology of his youth and the academic theology of his time can somewhat explain this claim.¹²

Since it is not my task in this work to fully explain Hegel’s philosophy of religion, I will restrict myself to the conclusions of my research published elsewhere. One of these conclusions is that

¹² Cf. Paul Asveld, *La pensée religieuse du jeune Hegel* (Paris: Desclée de Brouwer, 1953).

Hegel's interpretation of the Christian religion reduces it to the affective, symbolic, imaginative, narrative, and historical or quasi-historical aspect of the unique and all-encompassing truth, whose totality he tries to comprehend and express in the conceptual language of his "scientific" philosophy. Religion is thereby completely secularized, but it is not rendered superfluous because we — human, i.e., embodied, emotional, representational, and historical, beings — cannot live on conceptuality alone; we also need to appropriate the truth with our emotional, imaginative, storytelling and liturgical capabilities. Hegel's religion is one that does not add any truth to the truth of perfect modern philosophy; on the contrary, it contains the same truth, but embraces and presents it in a less perfect form: the form of a not-yet-transparent, therefore still somewhat obscure, identification with the absolute.

The Principle of Protestantism (Preface, § 270R)

A confirmation of this interpretation can be found in the Preface of the *Grundlinien*. In section 18 (p. 17) Hegel defines "the characteristic principle of Protestantism" in these words:

It is a great kind of stubbornness — a stubbornness that honors human beings — to not recognize anything in the *Gesinnung* which is not justified through thought. This stubbornness is characteristic of modernity. Moreover, it is the proper principle of Protestantism. What *Luther* began as faith in feeling and in witness of the spirit is the same as that which the further matured spirit attempts to grasp in the *concept*, in order to liberate itself in the present and so to find itself in it. It has become a famous dictum that a half-philosophy leads away from God — and it is such half-ness which conceives of knowledge as [only] an *approximation* of the truth — whereas true philosophy leads to God; the same is true concerning the state. Since reason is not satisfied with an approximation [. . .].

Most of Hegel's other characterizations of Protestantism are found in later texts,¹³ but together with some letters written in 1810 and 1816, they confirm the interpretation that identifies Hegel's Protestantism as the belief that the *entire* truth of the Christian

¹³ E.g., *Weltgeschichte*, pp. 877-897, 923-925; Su 16, pp. 238-242; *Berliner Schriften*, pp. 30-53.

faith can be comprehended by a philosophy whose only basis is found in Reason alone. Faith in Reason is Hegel's religion;¹⁴ similar to the way he understands the modern nation-state as the objective realization of the principle of autonomous reason, he understands Luther's faith as the subjective realization of that same principle in the ruling self-consciousness of the prevailing culture.¹⁵

You yourself know best how much worth Protestants attach to scholarly institutions of education; they appreciate these as much as churches, and certainly they are worth as much as these. Protestantism is not so much a particular confession, as rather the spirit of reflection (*Nachdenken*) and higher, rational *Bildung* [. . .] (letter of November 3, 1810 to Niethammer, *Briefe* I, p. 337).

Herein lies the difference between Catholics and Protestants. We have no laity; Protestantism is not entrusted to a hierarchical church; it lies exclusively in the general insight and *Bildung* [. . .]. Our universities and schools are our church. The pastors and worship are not the heart of the matter (*tuts nicht*), as it is in the Catholic Church (letter of July 12, 1816 to Niethammer, *Briefe* II, p. 89).

The Catholic community has [. . .] a solid center in the entire hierarchy, which is lacking in the Protestant community. In the former everything depends on instruction by the ministers, in the latter [everything depends] as much on the lay people, because, in fact, we do not have a laity and *all* members have an equal right and part in the determination and maintenance of ecclesiastical matters in doctrine and discipline. Therefore, our palladium is neither the collection of decrees of the Councils, nor a clergy that must reinforce them, but instead the general education (*Gesamtbildung*) of the community. More precisely, our palladium is the universities and the general institutions of instruction. All Protestants look up to these as their Rome and episcopal chairs. If the Protestant clergy [. . .] acquired more authority in the community, this would again lead to Protestant priestliness (*Pfaffentum*), which we also have had. The only authority is the intellectual and moral *Bildung* of all [. . .]. For Protestants, the sacred lies in *universal* intellectual and moral *Bildung*; for Catholics, that is indifferent and

¹⁴ GW 18, pp. 18 and 6.

¹⁵ Cf. Merold Westphal's well-documented study "Hegel and the Reformation" in Robert L. Perkins, *History and System: Hegel's Philosophy of History* (Albany: State University of New York Press, 1984), pp. 73-92. See also Reinhart Maurer, "Hegels Politischer Protestantismus," in Hans-Georg Gadamer (ed.), *Stuttgarter Hegel-Tage 1970* (Bonn: Bouvier, 1974), pp. 383-415.

optional, because the sacred lies in the church and this is concentrated and separated in a clergy. I would like to speak to you about the question to what extent this could be treated publicly (letter of October 10, 1816, to Niethammer, *Briefe* II, p. 141).

In his 1824-25 commentary on *Grl* 270R, Hegel presents the following explanation of the Protestant principle:

The true [reality] is that the principles of the state and the religion form a unity; this is the case in Protestant states. Abstractly taken, the principle of the Protestant spirit, [i.e.,] the principle of subjective spirit in itself, is that the human spirit is free, that man must have a say in things that concern him not hindered by any authority. The spirit must inhabit the human heart. This is also the principle of the state as such, [namely,] that man in his freedom exist and act; the state is nothing other than the actualization of human freedom. Thus, religion does not have another ultimate principle in itself than the state; both flow from one [and the same] source. In the Protestant religion, there is no laity, everybody is referred to his conviction that the spirit is a spirit in him. This principle constitutes the most intimate coherence between church and state. The Protestant state is worldly, but this worldly principle, namely, that freedom must be actual, is also the principle of the evangelical religion (*Ilt* 4, p. 650).

If Hegel's philosophy is the conceptual translation of the revealed religion in the interpretation he attributes to Luther, it is easy to understand that his theory of the state and his theory of the Christian religion are two coherent and mutually inclusive parts of his philosophy. The spirit's objectivity in right and its self-consciousness in religion belong together, even if the historical realization of both dimensions is still deficient. However, a new problem arises when we ask how the Christian religion, preached to all the nations, can be the foundation of an ethical objectivity that is emphatically anti-cosmopolitan.

National State and Universal Religion

We have seen that the summit of ethical life is reached in the nation-state, a particular and finite actualization of the universal spirit of the world. As external, objective, and worldly, the world spirit is itself finite, insofar as it does not include the interiority of religious or philosophical knowledge. The conclusion of Hegel's philosophy of "right" is that the "world," in the emphatic sense of

the spirit's second nature, cannot express the infinity of the spirit as it is in itself (as demonstrated in the logic and the psychology) and for itself (as demonstrated in the philosophy of absolute spirit). Even so, the world spirit is a more adequate actualization of the absolute spirit than the nation-state because (1) it encompasses all nations, and (2) its essence is exhausted neither by any single state, nor by any ensemble or sequence of states. All spatial and historical objectifications of the spirit are finite and to that extent non-exhaustive or inadequate actualizations; there is no possibility for totalizing or sublating them into an infinite *world* because their element is essentially historical, i.e., multiple, successive, and therefore inherently incomplete. Even if Hegel could prove that his idea of the state is insuperable, such that it must be repeated always and everywhere, this would not exclude the spatio-temporal dispersion and finitude of the spirit's externality. It would, however, still point toward the supranational idea of an objective, practical, "rightly," and ethical existence of humanity as such.

We know how vehemently Hegel rejects the idea of a *cosmopolis*, but he must agree with those who insist on the supranational universality of human rights and the necessity that these rights should receive a concrete content. True, his often quoted remark "that I must be considered a *universal* person, in which *all* are identical" and that "*in this sense, a human being counts because it is human*, not because it is a Jew, a Catholic, a Protestant, a German, an Italian, etc." (Grl 209R) is said in the context of the administration of justice within the civil society, but the principles of every person's abstract right (§ 40 ff.) do not set boundaries to their universal actualization. Since Hegel does not care to show how these principles can be actualized on a world scale, the question emerges whether he has an other than worldly or ethical actualization of universal (i.e., supranational) humanity in mind.



In the *Encyclopedia* of 1817, Hegel characterizes "the religion of art" (or the religion of the ancient Greeks) as a religion whose divine content is "a particular *Volksgeist*" (Enc A 461). The absolute spirit (or "God") appears in the Greek *polis* as the self-consciousness of a (relatively) free and rational people that celebrates

itself as the (presumably adequate but effectively inadequate) incarnation of the divine and universal spirit. The content of the revealed religion (which Hegel identifies as the Christian religion) is the absolute spirit in its "universal," "total," "infinite," and "eternal" actuality of self-knowledge (Enc A 465, 467, and 469). Its only limitation lies in its formal inadequacy: (1) as religion, it is purely internal, a form of contemplation only, and (2) in its contemplation it remains at the level of intuition, feeling, representation, and devotion. The second feature distinguishes it from philosophy. As for the first feature, Hegel does not see this as a mark of finitude, as is clear from the metaphilosophy in which the system culminates (Enc A 472-477): the purely contemplative activity of philosophy as "self-knowing reason" (A 477) is the infinite actuality of the spirit; as ultimate totality, it has sublated and integrated all theoretical *and practical* rationality (cf. Enc A 305 & R and 453). In any case, the horizon of both revealed religion and philosophy is universally human.

If the state is essentially particular, while the revealed religion is essentially universal, a problem arises that Hegel never solved: how can a universal religion, whose horizon is the totality of nature, spirit, and history (cf. Enc A 454 and 465-471), constitute the interior and subjective aspect of an actuality whose worldly (i.e., exterior and objective) reality is the state? That the true religion as affective disposition can be the foundation (*Grundlage*) of all human phenomena is understandable within the framework of Hegel's philosophy, because the absolute spirit is the alpha and omega (or the *archē* and *telos*) of all reality; but how could a single state — or even a world made up of a non-unified multiplicity of particular states — express such a religion? The simplicity and universal totality of true religion (and, for that matter, of philosophy) is missing in the objective "world" of praxis as Hegel sees it. *Religion and philosophy have a wider horizon than the ethical dimension; human praxis does not concretize the entire content of the absolute spirit.* The complete actuality of Hegel's spirit falls apart in a finite world of praxis and the "infinite" interiority of contemplation. The idea of humanity as a whole is not exhaustively externalized in the corporeal, legal, social, and political world, but only in religious emotions, imagination, stories and conceptual thought. Neither religion, nor philosophy have practical consequences beyond the

patriotic dispositions and nationalistic politics of singular states. If Hegel's model of the rational state were ever realized, for example, in one of the German nations, which through their "Lutheranism" are most prepared for it, such a nation would be the incarnation of a particular *Volksgeist* — and thus comparable to the Greek *polis* (cf. Enc A 461) — rather than the actualization of the spirit of humanity as a whole.

If all nations became Christian, would they constitute diverse concretizations of the same model? Would their national differences specify the universal spirit that makes them kindred to one another? What then about the impossibility of eternal peace? Can Christian states express their faith in God while warring, colonizing, and conquering one another? And can the Christian citizens of the various states prefer patriotism over their religious affinity? Hegelians might observe that such in fact has been the practice throughout the history of Europe and America; but Christians could answer that this fact proves the absence of Christian inspiration from our political history.

Three fundamental errors seem to contribute to Hegel's unsolved predicament. The first is his refusal to apply the logic of his own philosophy of abstract right to the international state of nature, as I argued in the preceding chapters. The second is that his philosophy of absolute spirit did not prompt him to correctly apply his own theorem that interiority (or subjectivity) must actualize itself in an adequate form of exteriority (or objectivity). With regard to the relations between objective and absolute spirit, this theorem at the same time includes the thesis that the will, in its determination of the objective world, must actualize exactly the same inspiration as is expressed by intelligence in its production of knowledge. Hegel's "world" does not actualize the self-knowledge of Hegel's "God." It only incarnates the idea of "right," which culminates in the concrete life of singular nations whose absolute sovereignty leads to enmity and mutual destruction rather than to universal concern and human unity.

Hegel's third error lies in his interpretation of the Christian way of life. In contrast with the exegetical studies of his youth, in which he meditated on the difference between Jesus' message of love (*agapē*) and the ethical demands of politics, the mature Hegel shows much less interest in Biblical texts than in the scholastic

dogmatics of the average textbooks, which he then simplifies in light of his own logic.¹⁶

The "new commandment" (John 13:34), i.e., the Christian commandment of undivided love toward God and all human beings without distinction does not play a central role in Hegel's interpretation. When it emerges in a course on religion, he hastens to restrict its scope to kindness toward friends or members of the same religious community,¹⁷ while denying that Christianity has a characteristic moral message different from the one deduced in his philosophy of "right." Even if there is a place for some forms of love in Hegel's thought, the Christian love of all human beings does not play any role and, in general, the moral horizon of Christianity does not alter the ethical framework that is deduced from the concept of free will as self-affirmation and self-determination.

For Hegel love (*Liebe*) is affective identification, being one in feeling with another person. It exists between the members of a family, which thereby form an emotional unity. This unity is so intimate that one person, the father, can embody and represent the entire family. Philanthropy is also a kind of love, but Hegel mentions it only once and does not see it as relevant for the constitution of a rational world.¹⁸

Religious love is a sort of "mystical union":¹⁹ through it we identify with "God" in devotion. It has no other practical consequence than contemplative enjoyment (*Genuß*) and a patriotic disposition. "Right" (*Recht*) and uprightness or honesty (*Rechtschaffenheit*) determine the ultimate horizon of human praxis. Charity, in the sense of voluntary generosity toward the needy, has a function on the level of civil society, but Christian *agapē*, with its implications of compassion, forgiveness, patience, and concern for peace, has no

¹⁶ Cf. *Le jeune Hegel*, pp. 62-78 and 158-181 on Hegel's exegesis of the gospels.

¹⁷ Cf. Su 17, pp. 283-284 and 304-306.

¹⁸ GrI 337: "... nicht ein allgemeiner (philanthropischer) Gedanke . . ." Cf. Su 16, p. 268: "All views and wishes of a sick philanthropy." The concept of *philanthropia*, important in Greek antiquity, was resurrected in the second half of the eighteenth century. Cf., e.g., Kant's *Metaphysik der Sitten*, *Tugendlehre* §§ 25-26 (Ak 6, 249-250). See *Hist. Wörterbuch* 7, col. 543-552.

¹⁹ Vorl 3, pp. 89 and 333 ("the mystical is everywhere all that is speculative"); Vorl 5, pp. 88, 166, 170, and 260; Su 17, p. 327.

political or world historical relevance. It must be confined to the private sector of the family and charity.

Freedom of Religion? (270R)

If the idea of the state is founded on "Protestantism," how should it then relate to other interpretations of the Christian faith and non-Christian religions? Quakers and Anabaptists, for example, object to essential institutions of the state. Pacifism and the refusal to take oaths imply the rejection of political duties, and some pietistic groups even reject politics as such.²⁰ Since rights imply duties and vice versa, such Christians cannot be citizens in the strict sense of the word. What about Jews, Muslims, Hindus, Buddhists, and so on?²¹ Hegel only speaks about Jews in order to emphasize that, as he already stated in GrI 209R (see above), "they are primarily human," which makes it possible to grant them certain rights (p. 225-226). In general, the state cannot recognize individuals as citizens if they disagree with its essential institutions; but if a state is strong enough to tolerate their presence, it must grant them the rights that belong to the civil society on the condition that they do not act against the institutions. Without being citizens in the proper sense, such persons are "only active members of the civil society, relating as private persons in private dealings to other members" (p. 225, note). With regard to the bulk of the population, however, the state must require that its citizens be members of a Christian church because that is the only way in which the religious foundation of the state can be a reality. However, the state should not try to directly control the mindset and inner disposition of its citizens, for its own domain is the exteriority of actions and deeds. Nobody can be punished or exiled for his or her convictions, but only for actual disobedience or criminal activity (p. 225; cf. Ilt 3, p. 735).

²⁰ Hegel mentions Quakers and Anabaptists in § 270R (note on p. 225), while in Ilt 4, p. 648, he enumerates "*die Stillen im Lande*" (who avoid all politics), the Pietists ('excellent monkish people'), "sects, Quakers, Anabaptists, Herrenhuthers, and so on."

²¹ Böckenförde (*Bemerkungen*, p. 497, n. 25) notes that the ALR (Universal Code of Law) of Prussia took the Christianity of the citizens for granted. To leave a Christian church was possible only by becoming a member of another Christian church.

Despite the public requirement that one belong to a Christian church, the state leaves the conscience of its citizens to itself. Freedom of conscience thus goes together with a restricted freedom of religion (p. 225). With respect to small and weak states, they are endangered by the pressure of religious dissidents. Even tolerance is discouraged, but Hegel does not elaborate on the measures that must be taken to deny them their basic rights.

From the perspective of Hegel's "Protestantism" one might expect that the churches to which the citizens must belong should be variations of or close to Hegel's interpretation of Lutheranism. In the *Grundlinien*, Hegel does not elaborate on the differences between the various Christian denominations. The situation in Prussia (where Lutheranism was preponderant, although the new provinces in the Rhineland were mainly Catholic), did not prompt him to such a discussion. Later on, he vehemently attacks Catholicism, but in 1820, he does not seem concerned with it. Nowhere in his published work does he speak about Zwingli, Calvin, or Calvinism.²² Apparently, he sees Calvinism as either not relevant or not relevantly different from the "Protestantism" he ascribes to Luther, while seeing Catholicism as a minority religion that would or should not change anything in the political constitution of Prussia. Against this background, we can understand how he can be rather unconcerned about the question of which Church the citizens should be members. Not only does he leave this to everyone's personal conviction (p. 225), he even states that the multiplication of particular Churches within Christianity is "fortunate," because the separation of confessions has made it necessary to discover behind or beneath their particularities the universal core and principle on which the modern, multid denominational, but still Christian state is based (pp. 232-233). That this universal core of the Christian religion is seen by Hegel as the core of the revealed religion sketched in Enc A 465-471 and that its principle

²² Hegel mentions Calvin once in a lesson on Giordano Bruno (Su 20, p. 22), while the calvinist (*calvinisch*) conception of predestination is mentioned in Vorl 5, pp. 49 and 93, and its view of the eucharist on p. 288. Cf. also Vorl 5, p. 293: "Reformierte." On Catholicism, Hegel is silent in the *Grundlinien*, though his reminder of the Galileo affair contains an implicit criticism. See also the *Zusatz* at the end of GrI 141R. For his later, explicit and extensive criticisms, see the long remark to Enc C 552 and the passages indicated in *Register* and *Hegel-Lexikon* s.v. *Katholizismus*, *Katholisch*, etc., and Vorl 4b, pp. 946 and 1008.

coincides with "the Protestant principle," as explained above, is without question. Hegel's long and polemical Remark to GrI 270 is not directed against any confession in particular, but rather against the subjectivistic tendencies that distort the true religion, which is their common core (§ 140R). Hegel's ideal of the relationship between state, religion, and philosophy is presented in a non-polemical and optimistic way at the very end of the *Grundlinien* (§ 360):

The true reconciliation [between heaven and earth, spirit and world] has become objective: the *state* has been unfolded into the image and actuality of reason; self-consciousness finds the actuality of its substantial knowing and willing in [their] organic development; in philosophy (*Wissenschaft*) [it finds] the free and comprehended knowledge of the truth [which is no longer a beyond] as one and the same truth in its mutually complementary manifestations: the *state*, *nature*, and the *ideal world*.

EPILOGUE

The Nation-State

The center and summit of Hegel's practical philosophy is the idea of the modern nation-state: the idealized core of post-Napoleonic West-European politics. Right, morality, family, and social relationships between individuals are some of its constitutive elements. Outside the state, these are neither protected nor institutionalized and their claims remain abstract, although their universal validity is ascertained by the logic of human personality and individual rights. Human rights are recognized but limited by the national community, whose internal and external sovereignty is expressed in the monarch. As an organic unity, the state is a hierarchy of classes and institutions. The king shares his power with his ministers, two chambers, the administration, the corporations, the judges, the military, and the police, but none of these subordinate powers can operate independently, though enough leeway is granted them to take care of their own business, according to the principle of subsidiarity.

The political solidarity of the citizens is guaranteed by their patriotic disposition, rooted in a common religion and realized in their adherence to the existing laws and customs. Their equality and their rights are based on a shared spiritual nature, whose primary expression lies in the right to private property. As willing beings, individuals posit, determine, and manifest their spirit by owning their body, soul, talents, work, and products. They are free to deal with other proprietors, setting up networks of contractual relationships. Equality before the law, freedom of profession, freedom of conscience, freedom of expression within certain limits, a limited freedom of religion, and legal protection of all rightful claims are guaranteed. But all these freedoms and rights are subordinate to the right of the state to maintain its sovereign unity under all circumstances.

It is the difficult task of any political philosophy to discover how the unity of the community can co-exist or even coincide with the

multiplicity of its members. Hegel has tried to accomplish this task by showing how the substantial principle of the ancient polis can 'integrate the modern and "Christian" principle of individual subjectivity. Without sacrificing the citizens' privacy to their public involvement, he has tried to reconcile the limits that their integration imposes on both. Private enterprises transgress their limits when they become antipatriotic, for example, by refusing to support their nation's wars or by engaging in international affairs that go against the nation's interests; the state's activities become unlawful when they oppress or neglect the citizens' lawful claims to self-affirmation and self-development.

Hegel's idea(l) of the state is a stylized version of what he saw as the essence of the nineteenth-century nation-state. The prevailing views about property, moral decency, criminal law, the family, the industrial revolution, the modern economy, patriotism, international treaties, and war are not only stylized by him, but deduced as necessary consequences of the two principles that — in his view — dominated the entire history of Europe. Moreover, he has shown how those two principles can be understood as two sides of one idea: the spirit as free. Thus, the *Grundlinien* has become a great monument of modern freedom, a philosophical celebration of the rational praxis that was invented by Western history.

The organization of freedom in Hegel's state tames the natural violence that continually threatens human communities. As a second nature, the state civilizes that violence by transforming it into the rational power of a spiritual organism whose strength lies in the hierarchical coherence of its articulation. The state of nature is kept in check by ethical institutions and an ethos that is rooted in a shared religion. However, in the confrontation of one nation with another, an undomesticated nature is lurking. The nation-state can be civilized within its own boundaries, but *vis-à-vis* the whole of humanity, the civilizing of violence remains an abstract and unreal, though philosophically justified, wish.

Individuals

Hegel's distinction between the political and social dimensions of the state provides room for the private choices of its citizens. Without private life one would not be able to realize the singularity

of his or her will. The philosophical justification of privacy is implied in the concept of free will as a particularized and singularized universal will that wills itself. As a willing individual, each human being is a person, and personality is the basic notion that is successively unfolded into legal, moral, and ethical subjectivity. The concept of a person thus contains the core of all that individual citizens can become within the horizon of Hegel's practical philosophy. Let us now recapitulate what this means for an overall conception of the social life of human individuals.

As a will that wills and determines itself, I myself affirm, choose, posit, specify, and actualize my intelligent and willing self. As we have seen, this self-determination implies that I take possession not only of external things and elements of nature, but also, and more fundamentally, my own body, my natural talents and acquired skills, my soul, my inherent rights, and my will itself as my most radical originality. Of course, I cannot create myself — to this extent I am not a *causa sui* — but I do have the capability and the task to willingly affirm, choose, confirm, and establish my given existence and the claims implied in it. In this sense I will, possess, and own all that I am and have. To own myself is the fundamental actualization of my individuality. Ownership, i.e., the individual will willing its own corporeal and mental world, is the basis of all honor. If I do not appropriate my inborn rights, I am a slave; if I do not possess anything, I am a dishonorable beggar; only property can manifest and ascertain my humanity.

Intersubjectivity

If individual and private property, as the first concretization of personality and respectability, is the basis of honor, other human rights are its unfolding. Since private ownership forbids all other individuals from owning what I own, intersubjectivity is possible only if we can bridge the basic separation implied in property. The self-appropriation of a person creates a fundamental sovereignty, and the multiplicity of many sovereigns cannot be overcome unless they freely choose to agree on certain actions that create bonds between them. The domain of interpersonal relations is entirely dominated by rights, claims, contractual obligations, judgments, penalties, and retributions. The social order is thus ruled

by an appropriative perspective, as we saw in studying Hegel's chapters on abstract right, morality, civil society, and international relations.

Society is a civilized version of the natural competition among sovereign proprietors dealing with one another on the basis of calculative self-interest. This self-interest is conserved and sublimated in mutual respect, as measured by the degree of honor that useful work deserves. However, the international order displays a higher-level competition with an inherently violent character that cannot be fully civilized. Cooperation among nations is possible, of course, on the condition that it is contractually established; once nations have become allies, solidarity and mutual aid can be expected. But even solemn contracts, in the form of treaties, can be broken without penalty. With regard to the poor, contractual exchange is replaced with philanthropy or charity, but the significance of these virtues remains marginal. The fundamental and overall virtue is *Rechtschaffenheit*: justice, i.e., respect for one's own and others' rights.

Nationalism and Humanity

The composition of the *Grundlinien* can be simplified by seeing it as an endeavor to progressively unify the multiplicity of singular persons (whose structure is analyzed in the first two chapters) into hierarchically ordered levels of commonality. The family is the basic union; the multiplicity of families is represented by the fathers who, through contractual dealings, constitute the social network of an economically conditioned system. The civil society represents a mixture of unity and multiplicity. Here, the privacy of separate owners develops into a general circulation of commodities, which makes the participants utterly dependent on one another. The lack of unity that cannot be overcome by association into classes and corporations necessitates a sublation of social relations in the "universal" unity of the state. As we have seen, however, a state is necessarily singular and particular. Therefore, the idea of the state cannot be thought of as a global unity, but only as a national community in opposition to other nations. This opposition can take the form of peaceful coexistence, hostile rivalry, warfare, or alliances. One form, however, is impossible: Hegel's

ethics *does not permit an ultimate total unity*. Neither a state, nor any other ethical or “right”-ful institution or praxis can unify the dispersion that, in the end, manifests itself as inherent in *Recht* and *Sittlichkeit*.

We have seen how Hegel’s antic cosmopolitism implies two anomalies. First, his philosophy of right ignores, and even seems to exclude, all direct relations between individual citizens of different states. The private aspects of international law are entirely absent from his theory. Meanwhile, the principles of his theory of civil society do not contain anything that would restrict their validity to a national horizon. Modern economy is necessarily international, and this had become clear long before Hegel started thinking about such matters (cf. § 247 & R). Not only does the economy exceed the borders of the state, the great religions, likewise, have always been supra- and international. A second anomaly in Hegel’s philosophy is therefore revealed in his conception of the relationship between politics and religion. How can the Christian religion and Hegel’s transformation of it into philosophy, both of which are universal *par excellence*, constitute the subjective and ideological side of the particular objectivity that is realized in the nation-state? Hegel’s “world” of right is much smaller than worldwide humanity. To answer this objection, one cannot appeal to Hegel’s sudden and scarcely justified transition from national states to *realms* in §§ 354-360, because neither of these cover the universal dimensions of humanity. For nations other than the “Germanic” ones (§§ 358-360), no function seems to be rationally justified except that of becoming similar to the Germanic nations or else becoming Germanic colonies (§ 248). In the latter case, one must ask how the individuals of those colonies actualize and articulate the rights that Hegel’s philosophy of right declares are inherent in each and every human person. Must they not, according to the logic of abstract right, develop their own freedom by transforming their country into an equally sovereign nation-state, thus undoing any attempt at colonization? In any case, the end of a consistent Hegelian philosophy of praxis cannot lie in a Germanic realm, but only in a worldwide ensemble of independent nations, or rather in a new, supranational level of ethical life, whose legal, economic, and political dimensions cannot be derived from the subordinate level of the nation-state.

However, the latter consequence would refute Hegel's conception of the relationship between praxis and theory. For, as we have seen, despite statements in the philosophy of subjective spirit affirming the equal importance of intelligence and will as the two fundamental constituents of spirit, Hegel ultimately opts for a subordination of praxis. As the *objectification* of the spirit, praxis is seen as a finite expression of the truly universal, *all-encompassing*, and therefore infinite, *knowledge* of the spiritual absolute.

Right and Love

Besides the principle of right, there is only one other inter-subjective force in Hegel's ethics: love (*Liebe*). This is understood as a union so intimate that it abolishes the separation between singular persons; they "constitute *one person*" (§ 162). Love fuses the loving persons into a new unity that sublates their strictly individual rights. This union makes it possible for the members of a family to be represented by the father, instead of participating separately in the economy of the civil society. Similar to the monarch who embodies the entire nation, the father encompasses the totality of his family. Both the king and the father simultaneously *crown and encompass* the whole of which they are the summit *and* the summary, thus illustrating Hegel's logic, according to which the unifying *archē* and *telos* is the whole. Within the whole of the family, the members are related as components of one, "universal and permanent" person who owns their common property (§§ 162 and 170). Love abolishes independence and individual autonomy because it transforms two or more wills into one. Similarly, patriotism, the basic disposition of the citizens, sublates their wills into the one will of their sovereign nation, even though this contains a subordinate dimension, the civil society, which permits these wills to freely interact in relative autonomy. Something like this must also happen in the family, though the relative autonomy of its members is even more reduced.

Beyond the relations that stress the separation between individuals who claim the exclusive right to own their separate concrete existence, and *love*, which abolishes that separation through a fusion of persons, there is no other principle or virtue in Hegel's theory of interpersonalship. Friendship, in the sense of Aristotle's

philia,¹ plays no role in Hegel's practical philosophy,² and any conception of love other than the romantic one of fusion has escaped him. Caught between the unities of love and patriotism, on the one hand, and the atomic multiplicity of private individuals, on the other (i.e., between a totalitarian and a contractual theory of the human community), Hegel's attempt to develop a satisfactory theory of mediation ends in failure. While separation and multiplicity dominate the lower levels of abstract right, morality, civil society, and the highest level of worldwide and world-historical relations among states, a totalistic identity dominates the family and the state itself. Instead of preserving the unique singularity of family members other than the father, Hegel suppresses it, while his sublation of individuals' rights in the state restricts their ethical life to the particularity of a national community. The fact that all individuals are in the first place members of humanity is not acknowledged in Hegel's ethics. Individuals do not exist in his conception of history — except as heroes who embody the destinies of states or cultures. In and for themselves singular wills are not philosophically interesting for the champion of reason and rational actuality.³

The articulations of the *Grundlinien* manifest the secret of Hegel's logic, according to which all differences are oppositions, contradictions, or separations that ultimately must be absorbed in the absolute unicity of a totality, because they are nothing other than the self-unfolding of an original unity. While the initial unity of Hegel's ethics is the spirit's will that wills itself, its ultimate unity is found in the spirit's intelligence. As *absolute Wissen*, this

¹ Aristotle, *Nicomachean Ethics*, VIII-IX.

² Hegel rarely talks about friendship; when he does, it is not to highlight its importance. Cf. Su 4, p. 271; 14, p. 157; 17, p. 304. On love, see Su 6, p. 277; 7, p. 307; 14, pp. 154-159 and 182-190; 17, pp. 222 and 304.

³ On the role of the "great man" in Hegel's philosophy of history, see Eric Weil, "La philosophie de l'histoire hégélienne," in E. Weil et al., *Hegel et la philosophie du Droit* (Paris: Presses Universitaires de France, 1979), pp. 11-16 and 27-29. The accusation that Hegel underestimates the dignity of individuals as unique beings cannot be refuted by simply emphasizing the role of individual initiatives and (relative) autonomy in his treatment of civil society and moral responsibility on all levels of ethical life. Hegel's advocate must show that human individuality has a meaning beyond its relevance for politics, history, art, ideology, science, and philosophy.

intelligence knows all reality, including the will's and its own unfolding into the actuality of a self-comprehending world. This final truth offers an unlimited space for human thoughts, but it limits their praxis to the boundaries of a country. Reason's claim to universal philosophy has succumbed to the practical provincialism of a nation.

Likewise, within the nation, the tension between the dimensions of unity (family and state) and those of multiplicity (right, morality, civil society) is resolved by the subordination of the latter to the state. Since there is no intermediate principle between right (the principle of opposition) and love (the principle of identification) — or between subjectivity and substantiality — a synthesis can be found only in a hierarchical relation between both principles. Hegel's entire logic prefigures the primacy of unity over diversity. The *identity* (not the coherence or combination) of identity and difference necessarily subordinates the difference to a higher form of identity to which the difference is opposed, but this higher — and ultimately highest — identity is identity *rather than* difference.

Friendship and love have a structure other than coincidence or competition. They maintain the equal weight of each person's unicity *and* their belonging together in difference and communion. Otherness and solidarity do not contradict one another; to be myself and at the same time part of a "we" does not force me to give preference to myself over us or to us over me or to reduce one to the other. Enduring fundamental otherness within the experience of belonging together is a human possibility that saves us from becoming merely elements of one organism. Hegel's many organic metaphors, especially with regard to the state, indicate an unfriendly model for human commonality. His logic, however splendid in its dialectical overcoming of contradictions, is inhospitable to a paradigm that would combine all individuals' *freedom* and *equality* with their unique and absolutely respectable otherness, on the one hand, and their "*fraternity*," on the other.

Perfection and Imperfection

If property is the fundamental actualization and expression of personality, respect for all persons, which is the basic virtue,

implies in the first place commutative justice. The main vice on the intersubjective and social levels would then be greed. With regard to the family and the state, on the other hand, the main vice consists in that which is contrary to solidarity and support: a spirit of divisiveness, dissidence, rebellion, and internal or "civil" war. The attitude most frequently and extensively attacked by Hegel, is the subjectivistic exaggeration of the principle of subjectivity, as we have seen. At the end of his chapter on morality, subjectivism figures as *the* concretization of an evil conscience. Notwithstanding Hegel's intention to do full justice to the modern principle of moral subjectivity, he became irritated when people appealed to their private desires to contest or change the public laws and mores. Every change should be justified by appealing to universally valid principles of public life. The absolute sovereignty of the state and the self-affirmation of its citizens are the parameters that define the truth of their unity.

We have seen how the will performs a circular movement through all the stages of its unfolding into the state: from person to king, its autonomy creates one configuration after another in order to progressively perfect coincidence with itself. All the stages except the last, i.e., the state, are characterized as incomplete insofar as they fail, in some respect, to actualize the totality of the will's possibilities. We have also seen that, in the end, the state itself is not sufficiently universal, but let us bracket this insight for a moment in order to concentrate on the reasons the subordinate levels of "right" cannot actualize the will's concept perfectly. These reasons can be discovered by studying the transitions between the main stages of the entire development.

In general, each transition within the philosophy of right is characterized by some kind of negativity. The unfolding of abstract right results in the conceptual possibility of crime. As an internal contradiction, this leads to the necessity of a morally decent and public judge. This necessity is conditioned by *possible* crimes, though Hegel does not insist here on the differences between a conditional and an essential necessity.

The analysis of morality leads to the contrast between subjective conscience and the good, which easily degenerates into a contradiction between the good and a subjectivistic or arbitrary and thus evil conscience. Like crime, moral evil is a negative possibility, not

a necessity, although here again, Hegel blurs the line between possibility and necessity.

The family cannot be the final stage for several reasons: (1) Children grow up and are educated in order to become independent persons who establish new families. (2) Since the family lacks autarchy, it necessarily participates in the contractual relations of civil society. (3) The couple's relationship itself is temporal, because the partners will die. (4) A fourth, contingent, reason can be added: divorce is a conditional necessity. The first three, however, present a more rigorous kind of necessity than the conditional contradictions and necessities of abstract right and morality.

Civil society is a clear example of a multiplicity that cannot unify itself. Though the legal system, corporations, and public administration create some cohesion within its multiplicity, they themselves rely on a unifying public power and their arrangements cannot create a totality. This impossibility is manifest in the extreme poverty for which the society cannot find a solution — except perhaps, by colonization, which brings with it several forms of injustice. The transformation of civil society into a subordinate level of the state is caused by an essential, conceptual, and “ideal” necessity, which differs from those indicated above, because it is neither conditional like the first two transitions nor “natural” in a way similar to the sublation of the family.

The state is the perfect organization of a free people, but it too is unable to be the “absolute and ultimate end of the world” (§ 129) because of its singularity. In this respect, its position *vis-à-vis* other states is similar to that of persons within the horizon of abstract right and civil society. Moreover, the international state of nature is as unprotected against injustice as abstract right, and the eruption of war is always imminent. The necessity of sublating the state is therefore comparable to the contradictions that result from abstract right and civil society.

Despite the dissimilarity between the impasses that condition the transitions between the sections of Hegel's practical philosophy, an underlying, more homogeneous logic rules all of them, as it does Hegel's entire philosophy. It is the logic that combines the demand for a union of all multiplicity in their conceptual totality (as constituted by the mutual mediation of its elements universality, particularity, and singularity) with the demand that

subject and object coincide in absolute (i.e., subjective as well as objective) identity. By focusing on crime and punishment at the end of his chapter on abstract right, Hegel obscures the more fundamental question of (1) the persons' monadic multitude and (2) the conceptual difference between their objective right and the subjective respect that is required by this right. Crime is only the clearest manifestation of this difference, but even if no crimes occurred, philosophy should answer the question of how the will's universality and the singular will of an individual person, though originally and essentially one, can choose to unite or separate itself from that same person's universality. The *possibility* of crime is sufficient for postulating a judicial institution and fair judges as a conditional necessity.

Likewise, Hegel's lengthy insistence on the "vanity" (§ 139) of conscience and his overly lengthy and aggressive polemics against its subjectivist corruption in §§ 138-140R obscures, rather than enlightens, the fundamental problem already indicated at the end of Abstract Right: how can a singular conscience know and accomplish the idea of good, which — as "realized freedom" — is the unity of the universal and particularized will as willed by the singular wills of individuals (cf. §§ 129 and 137)?

All the transitions of the philosophy of right are dominated by variations of the same fundamental necessity: Hegel's reason *is and produces* the identity of subject and object (concept and reality, ideal and actuality, universality and individuality) in the identity of difference and identity.

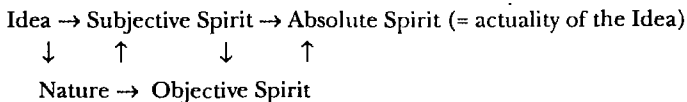
Spirit as Self-Appropriation

From Hegel's perspective, property can be seen as a paradigm for the understanding of the spirit. Within the dimension of the will, property is the immediate and perduring manifestation of the will as the power of self-positing and self-determination. In the form of persons, the will appropriates all that can be possessed by grasping or designation. This encompasses not only the totality of nature, but also the person's own body and soul, powers, talents, skills, and artifacts. To be truly free, I must will, possess, and master my own empirical and spiritual existence. Self-possession, self-mastery, self-comprehension guarantee autarchy. Since I am finite, this

autarchy is relative; even the state is not fully infinite in this respect. *But the spirit is.* Appropriation, consumption, enjoyment, and comprehension of all external and internal realities and possibilities are modes of identification: the owner makes himself both the center and the encompassing horizon of what he owns. The spirit owns the universe; not only does it grasp and enjoy all things, it first produces them as realizations of its possibilities. They are its own because they emerge from the spirit and return to it in a new, unfolded and perfected form.

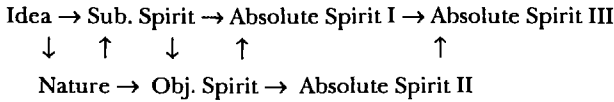
From the (limited) perspective of property, Hegel's universe can be schematized as the spirit's adventure insofar as the spirit is will. As idea (i.e., as summary of the logic), the spirit gives itself a body in nature (as explained in the philosophy of nature). It appropriates this body in the form of a human corporeality (first part of the philosophy of subjective spirit). It develops its consciousness and the self-conscious rationality of its thinking and willing (second and third parts of the philosophy of subjective spirit) in order to transform its natural corporeality into a spiritual world — the “second nature” or collective “body” of the legal, ethical, and historical universe. Being the life-giving soul of this corpus, the spirit appropriates the natural and ethical universe by comprehending it as the revelation of its own glory. As owner of nature, culture, and history, the spirit enjoys the universe as its body and itself as the cosmic soul.

A simple schema can illustrate this outline of the spirit's self-appropriation:

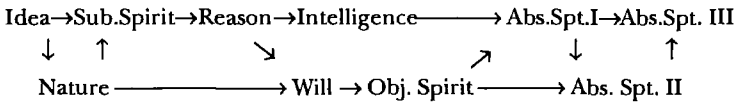


A first complication for the schema emerges when we realize that the Absolute Spirit encompasses the histories of art, religion, and philosophy. These histories are the cultural counterpart of the ethical or “world” history in which the objective spirit displays the final dispersion of its life. If we include all these kinds of histories, it becomes clear that the absolute spirit transposes the history of the objective spirit (which itself objectifies the subjective spirit) onto the highest level of spirituality. If we call the ensemble of art,

pre-Christian (or pre-“Lutheran”) religions, and pre-Hegelian philosophies “Absolute Spirit II,” while reserving “Absolute Spirit I” for the *abstract* concept of absolute spirit, and “Absolute Spirit III” for the final truth as contained in “revealed religion” and Hegel’s philosophy, we can modify the schema in the following way:



If we want to emphasize that Hegel defines the subjective spirit as the unity of intelligence and will, but, in the end, subordinates the will to intelligence, a further specification must be made.⁴



The last schema shows that the will and its actualization in right and world history (or the objective and external body of the spirit) relates to the Subjective Spirit and Absolute Spirit I (and III) in the same way that Nature relates to the Idea (which is the abstract form of the spirit) and the Subjective Spirit. This relation, in its most abstract and universal form, can be shown by drawing two lines: the first connects the key forms of unity and perfection, while the second connects the opposite forms of multiplicity and contradiction such that both lines together symbolize a skeleton of Hegel’s system. In the following schema, I indicate between parentheses the sections of the *Encyclopedia* of 1817 where the explanation of the various topics begins.

(I) Being (39) → essence (64) → concept (109) → subjective concept (112) →

(II) quantity (52) → appearance (81) → object (140) →

(I) idea (161) → spirit (249) → subj. spirit (306) → abs. spirit I (453) → abs. spirit III (465)

(II) → nature (192) → objective spirit (400) → abs. spirit II (456)

Though very formal, or even formalistic, this overview confirms one of the theses defended in the present book, to wit, that

⁴ Cf. *Selbsterkenntnis*, pp. 42-57 and 79-85.

Hegel's philosophy is an ontology and a metaphysics of the spirit ("God"), in which "right," together with quantity, appearance, objectivity, nature, etc., constitutes the indispensable, co-constitutive and realistic, but subordinate element of the human universe. If Hegel's "Spirit" is accepted as a kind of "God," his ontology is also an onto-theo-logy and his ethics a conceptual analysis of "God's" freedom as unfolded in the history of humanity.

Tasks

The explicit and implicit criticisms formulated in the present study presuppose a conception of ethics, politics, religion, logic, and philosophy other than Hegel's. Their justification would require one or more books.⁵ For a continued discussion with Hegel on "right" and praxis, at least two questions must be addressed: (1) How must we understand human freedom? (2) Do we need "the Spirit," and if so, how must we conceive of it? I will briefly try to show the relevance of these questions for such a discussion.

If human freedom is indeed a will that freely wills, determines, and concretizes itself in the empirical world, it is not so difficult to understand why Hegel thinks that the two pillars of "right" are property and sovereignty. Between individuals (who, in this respect, enjoy a certain kind of sovereignty) and the sovereignty of the state, all the intermediate dimensions (morality, family, civil society, the judiciary, corporations, police, parliament, public opinion, etc.) are seen as mediating elements that reconcile the autonomy of the individuals with the absolute sovereignty of their community. Such a reconciliation demands obedience on the part of individuals, but this does not lead to alienation insofar as it allows them to participate in the sovereign mastery and self-possession of the ethical totality of which they are components.

In this totality, there is no place for an *original* receptivity. Ultimately (i.e., from the definitive perspective), all moments of passivity are self-positing determinations of the will's initiating power. Receptivity, suffering, patience, endurance, etc., belong to

⁵ Fragments of my attempt at justification can be found in *System and History* (Albany: State University of New York Press, 1986); *Before Ethics* (Amherst, Mass.: Prometheus Press, 1998); and *Reason in Faith* (New York: Paulist Press, 1998).

the dimensions of nature, corporeality, sensibility, and history. The spirit itself, however, is pure actus: absolute or unconditional self-actualization. Human beings share this pure activity to the extent in which they are free. All forms of passivity are therefore in truth forms of self-determination: the spirit wills them as self-imposed limitations or inhibitions that are necessary for its own development. Without such limitations, the spirit would remain abstract and unreal: an origin without actuality.

If sovereign self-possession is the secret of free will, all forms of acceptance, gratitude, patience, and hope can only be subordinate moments in a history of total self-liberation. Conquering all elements that still escape human power is then the goal. In line with Descartes' dream that modern science would make us "masters and owners of nature,"⁶ Hegel has extended that dream to the entire world, including the full range of human spirituality and culture.

Since no finite individual or nation can fully accomplish this, the relationship between human finitude and the Spirit's infinity cannot be ignored in a philosophical investigation of freedom and "right." In place of "Spirit" or "the Absolute," Hegel often uses the name "God," which he also uses to name the God of Christianity. If this "God" is the absolute and infinite (reason-able) will that wills itself by positing, unfolding, and appropriating itself in the actualization of its possibilities, it would be a threat to all finite wills, unless the latter agree with, share in, and profit from that willing. If, however, "God," as "wholly different" (*das ganz Andere*) were opposed to human finitude, we would have to protect our own freedom from the omnipotence of the Absolute or else reject it as an empty myth. Hegel's logic of the infinite tries to prevent or overcome such alienation by emphasizing the originary and perduring unity of all finite spirits, intelligences, wills, thoughts, and actions with the Infinite itself. The absolute Spirit itself is actively present and presently active in all human adventures, including conquests as well as failures and tragedies. All passivity is

⁶ Cf. *Discours de la Méthode*, AT VI, p. 62: "et ainsi nous rendre comme maîtres et possesseurs de la nature." By extending its scientific study to the social, cultural, and historical dimensions, the modern unfolding of Descartes' ideal has resulted in the enterprise of (re)constructing the entire, human as well as natural, universe.

in "God," but from the outset it is enveloped and absorbed by actuality. The identification of the Spirit with the human universe is Hegel's answer to the question of how modern freedom can be reconciled with faith in God. If the final unfolding of the human will still shows a certain powerlessness, as we have seen in analyzing Hegel's conception of the international situation, it is in absolute knowledge that "God" overcomes all passivity. Reason conquers receptivity by constructing the totality of God-in-history as the self-unfolding of a reason-filled universe. Faith in Reason is Hegel's formula for what he considers to be the truth of all faiths in God.

Hegel's identification of "God" with the universe, together with his subordination of praxis to theory, constitutes the horizon of his thought. A different conception is necessary if one believes in a friendly and freeing God who prefers compassionate wisdom over the masterful grasp of a totalistic logic. "Right" is perhaps not the best word to summarize the essence and ideals of human action, and faiths other than the faith in reason might be more faithful to God and humanity. If philosophy is a passion for thoroughly experienced thought and wisdom, a journey with Hegel is certainly rewarding, but it does not quite reach the desired goal. The Good demands a higher ascent and a deeper descent because it exceeds and precedes the noëtic cosmos of ideas.

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